SELECTMEN'S MEETING AGENDA*

Griffin Room, Town Hall Executive Session 6:00 P.M. Regular Meeting 7:00 P.M.

Monday, March 18, 2013

I. <u>CALL TO ORDER</u>

- II. <u>EXECUTIVE SESSION</u> Pursuant to M.G.L. c. 30A, § 21(a)(6), to consider the purchase, exchange, lease or value of real estate, and; Pursuant to M.G.L. c. 30A, § 21(a)(3), to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares
- III. PLEDGE OF ALLEGIANCE
- IV. <u>WEEKLY BRIEFING</u>
- V. PUBLIC COMMENT/ANNOUNCEMENTS
- VI. <u>CONSENT AGENDA</u>
 - A. Approve Minutes March 4, 2013 Regular Meeting
 - B. Vote to approve the recommendation of the Town Administrator for Nstar Electric to provide underground service to 11 Shore Road Extension
 - C. Vote to approve recommendation to award contract for the Cranberry Valley Golf Course Restaurant to Country Club Elite with a lease payment of \$7,500 per year
 - D. Vote to accept the resignation of Jean Ann McLaughlin as a member of the Disability Rights Committee
 - E. Vote to approve 2013 Long Pond Bass Tournaments
 - F. Vote to approve nomination of Officer Jack Burns as Inspector of Animals
 - G. Vote to refer proposed zoning articles back to the Planning Board for Public Hearing
- VII. PUBLIC HEARINGS/PRESENTATIONS (Not earlier than 7:00 P.M.)
 - A. Public Hearing Application for Change of Location and Transfer of Annual Package Store, All Alcoholic Beverages License held by William R. Coffin & Sons, Inc. d/b/a Plum's Package Store to Packaging Center, Inc. d/b/a Stop and Shop Supermarket
- VIII. OLD BUSINESS ·
- IX. <u>NEW BUSINESS</u>
 - A. Request to establish guidelines for future use of the South Harwich Meetinghouse discussion
 - B. Request by Nstar Electric to cut trees in Harwich that have undesirable growth or structural defects discussion and possible vote
 - C. Disposition of the West Harwich School Building/Site discuss re-bid of RFP/possible vote
 - D. Annual Town Meeting
 - 1. Review Special Town Meeting Warrant discussion/vote financial articles
 - 2. Ballot questions/general override discussion
 - 3. Article review
 - #16 Fund the Purchase of a New Recreation Passenger Van
 - #17 Beach Parking Lot Paving
 - #18 Long Pond Beach Restroom
 - #19 Allen Harbor Bulkhead Repair and Parking Lot Drains
 - 4. One-Liners discussion/possible vote
- X. TOWN ADMINISTRATOR'S REPORT
- XI. <u>SELECTMEN'S REPORT</u>
- XII. <u>ADJOURNMENT</u>

*Per the Attorney General's Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following "New Business."

If you are deaf or hard of hearing or are a person with a disability who requires an accommodation, contact the Selectmen's Office at (508) 430-7512 ext. 2

Authorized Posting Officer:	Posted by:		
		Town Clerk	
	Date:	3/14/2013	
Sandra Robinson, Admin. Secretary			_

MINUTES SELECTMEN'S MEETING GRIFFIN ROOM, TOWN HALL MONDAY, MARCH 4, 2013 6:00 P.M.

SELECTMEN PRESENT: Ballantine, Cebula, Hughes, LaMantia, McManus

OTHERS PRESENT: Town Administrator James Merriam, David Ryan, Dana DeCosta, Rich Larios, Pam Groswald, Jack Brown, Skip Patterson, Supt. Cragin, Brian Widegren, Kathleen Isernio, John Wheeler, Robert Sanborn, Erin Orcott, Lee Culver, and others.

MEETING CALLED TO ORDER at 6:00 p.m. by Chairwoman Linda Cebula.

CONSENT AGENDA

- A. Approve Minutes February 25, 2013 Executive Session
- B. Vote to approve Caleb Chase Fund request
- C. Vote to approve CVEC request to submit documents to the Department of Public Utilities for approval regarding transfer of net metering capacity

Mr. Hughes moved approval of the Consent Agenda. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

PUBLIC HEARINGS/PRESENTATIONS (Not earlier than 6:00 P.M.)

- A. Joint Meeting with Finance Committee:
 - 1. Monomoy Regional School District Budget presentation

Superintendent Carolyn Cragin, Business Manager Kathleen Isernio and School Committee Chairman Brian Widegren presented the Monomoy Regional School District budget and took questions and comments from the Board of Selectmen and the Finance Committee.

2. Cape Cod Regional Tech Budget presentation

Superintendent Robert Sanborn, Business Administrator Erin Orcott, and School Board member Lee Culver presented the Cape Cod Regional Tech budget and took questions and comments from the Board of Selectmen and the Finance Committee.

- B. Search Firm Interviews:
 - 1. Groux and Associates

The Board interviewed Tom Groux of Groux and Associates.

2. Collins Center for Public Management

The Board interviewed Richard Kobayashi of Collins Center for Public Management.

3. MMA Consulting Group

The Board interviewed Mark Morse of MMA Consulting Group.

Mr. Hughes moved to retain the MMA Consulting Group to do the search for the Town Administrator. Mr. Ballantine seconded the motion. Mr. McManus commented that he preferred the Collins Center for Public Management. The motion carried by a 4-1-0 vote with Mr. McManus in opposition.

NEW BUSINESS

A. Request by Cape Cod Commission for appointment of a town representative – discussion and possible vote

Chairwoman Cebula noted that Jacqueline Etsten has applied and she requested that Mr. McManus and Mr. Ballantine interview Ms. Etsten.

TOWN ADMINISTRATOR'S REPORT

Allen Harbor

59 loads removed as of 2/26. CLE Engineering performed the post dredge survey on 2/26. I will see what I can do. I hope to be able to reduce the data by the end of the day tomorrow. I will have a draft bat map available. Volumes will not be available until the end of the week. The purpose of this email is to memorialize the Department's approval (401 and Chapter 91) in granting your request to complete the dredging beyond the authorized TOY incursion which will be ended on February 28, 2013. The Department understands it will take approximately 4 to 5 hours to dredge the remaining sediment. Please confirm that the silt curtain will remain in place until the dredging is 100 % completed.

Regards, Ken Chin

We have all we need. Work needs to be completed by March 3rd. The way the ACOE permit is written the dredging activity must be completed on March 2nd.

Don Munroe

Cranberry Valley

We are planning to open greens and carts on or about March 18th FYI. Dennis

Chief Clarke update on Fire Station Generator

As we speak South Shore Generator is at the Fire Station doing an evaluation of our present generator issues, specifically failure five times during the last storm. It should be a priority for replacement.

Norm

Monomoy Regional School District

Superintendent Carolyn Cragin provided me with a copy of the Unit A Teacher contract for FY 13-15, which was approved on February 27th. (A copy is in office)

Blizzard (Feb. 8-9)

The public damage report submitted to MEMA totaled \$159.6k,

Queen Anne landfill parcel split

We just received the following notice from the Cape Cod Commission:

"Enclosed please find a copy of the Development of Regional Impact Exemption Decision for the Harwich Landfill Approval Not Required (ANR) Division Plan project that was approved by the Cape Cod Commission on February 14, 2013." David Spitz

Sale of Alcohol Licenses

As per your request, please find an opinion from Town Counsel Brian Riley re: legality of selling an interest in a license proposed for transfer.

Time of Year Grant proposal Truro/ Harwich

Pam Neubert has prepared a grant proposal to amend the time of year restrictions from a calendar base to a science based program. She is submitting the application with a local match requirement.

FEMA Mapping from Dave Spitz

Interesting meeting in Chatham this morning. I went with Bob C and Paul S and met with reps from FEMA, DCR and the project engineering firm. They gave us one paper set of new floodplain maps for Harwich. These are only for staff review and not for the general public. A complete set of maps in both paper and electronic formats will be available in late April.

Several points came out of this meeting:

- 1) The boundaries of both velocity zones and 100-year flood plain area will expand.
- 2) There may be more restrictive provisions on grandfathering provisions for flood plain insurance.
- 3) One such provision will specifically impact anyone who is less than a full-year resident of Harwich.

As an outcome of this meeting, we recommend a well-advertised public meeting to be held in July (or possibly August). FEMA will send representatives from its engineering and insurance sectors, and DCR also will attend. They prefer that such meetings involve more than one town. I think our issues are similar to Chatham (flood plain boundary changes in Dennis will likely be much greater), and I will contact Paul Lagg to see if they are interested in joining us.

Department of Unemployment Assistance training

The webinar on Seasonal Employment will be broadcast in the Griffin Room at Town Hall on Thursday February 28th at 9 a.m.

Harwich landfill parcel split

We received Cape Cod Commission decision on February 14th, granting a DRI Exemption. This application is part of a previous TM vote to sell a small portion of the landfill property. We have to finish up with Dept of Health de-site assignment first - scheduled for March 12th.

Dear Representative Peake:

Thank you for the opportunity to meet with you after yesterday's Harwich Board of Selectmen's meeting. Attached please find the text of the letter (signed and mailed on letterhead) sent to the Department of Public Health regarding policies controlling the implementation of the medical marijuana law. I hope you will have some time to review its contents. Properly implemented, this will create additional responsibilities for law enforcement services in all of our communities including a clear increase in crime; replicating the mistakes of other states in regulating the provisions of this law will have a sever impact on public safety and quality of life with no provision for additional assistance. If you have any questions or need further information, feel free to contact me at your earliest convenience.

William A. Mason, Chief

Paula Aschettino letter to AG

Hi Members.

I am asking you to print out the letter below to the Attorney General linked to this message and please sign and send to the AG Office ASAP. The Attorney General needs to know there are thousands who wish for this investigation. Please call your coastal legislator and ask them to also request the AG's investigation. I need your help to show Legislators and the AG's office we are not accepting these excessive rates for the Cape and Islands and we demand protection by the MA DOI and action by the MA Legislature to mandate said protection.

Letter to Attorney General Martha Coakley

Sincerely,

Paula Aschettino

Chair- Citizens for Homeowners Insurance Reform

Personnel

Paula Champagne and I have hired Meggan Tierney as Health Inspector, starting March 25th.

Solar for Monomoy H.S.

We cannot add the high school to Round II, it would have to be included in a Round III. That being said we have learned a lot from Nauset High School and what you should and should not do regarding putting PV on a new school roof. Ron is copied on this email and he should meet with the Building Committee to discuss this issue sooner rather than later. Maggie

Public Access Board grant info from John Bologna

Below is the contact Info for Doug Cameron, Asst Director of the Public Access Board and a link to their web site. He will entertain a funding partnership with the town of Harwich for improvement to the Allen Harbor Boat Ramp, bulkhead and parking lot. Let me know if I can help facilitate in any way.

Bike Signage FYI update

When this item went to the BoS last month, there was some concern about the proposed signs on Route 39. As a result, the Bike Committee has removed those signs and substituted several other routes (see below). Please let me know if you need anything further. Hi Julie,

Our Harwich Bike Committee has revised its request (see attachment). The biggest changes are:

- * Eliminating Route 39
- * Adding new routes through Harwich Port and connecting to Red River Beach
- * Extending Queen Anne Road so that it completes a complete loop with Oak Street
- * Delaying (but not eliminating) signs on Routes 137 and in the Harwich Center Historic District.

I believe these changes result in a few additional signs which you may or may not be able to accommodate. I would be glad to discuss any of this information in more detail on the phone or in person.

David Spitz

Route 137 Project

Link Hooper reports that Chris Lynch plans to restart the final phase of construction next week. Lynch is waiting for NSTAR/Verizon to move about a dozen poles in the sidewalk layout. Link will report within a week whether Board assistance will be requested on the poles.

CWMP update from Dave Young

The Draft CWMP and Expanded ENF have been officially filed with MEPA and the Cape Cod Commission (CCC). The CCC has come back with a proposed Public Meeting date of 6pm on Wednesday April 3rd and a back-up date being April 2nd. Can you check on those dates and see if the Community Center or Town Hall would be available for the meeting. Also MEPA normally schedules their site review and scoping session for the afternoon of the public meeting date.

At this meeting which is conducted by the assigned CCC reviewers normally the towns consultant does an overview of the recommended program presentation and then the CCC technical staff present their findings and issues recommended for further study. Public comment is also accepted.

If you could review and discuss and then let us know if April 3rd (or 2nd) works over the next day or two that would be great so we can convey the date back to the agency reviewers. Call if you have questions. Dave

ADJOURNMENT

Mr. McManus moved to adjourn at 9:20 p.m. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel Recording Secretary JAMES R. MERRIAM, Town Administrator

732 Main Street, Harwich, MA 02645



MEMO

TO:

Board of Selectmen

FROM:

James R. Merriam, Town Administrator 97 1/2

RE:

Recommendation – Utility Hearing March 7, 2013

DATE:

March 11, 2013

On March 7, 2013, a Utility Hearing was held per the request of NStar Electric. The request was to install underground cable and service to a home on 11 Shore Road Extension. There were no abutters in attendance and hearing no objections to the work to be done, I recommend that the Board approve Nstar's request so that they can begin work as soon as possible.

JRM/sr

MINUTES Utility Hearing – Underground Service 11 Shore Road Extension 11:00 A.M.

Those present included: Karen Corriveau, NStar Right-of-Way Manager; James Merriam, Town Administrator; Paul Sweetser, Town Surveyor; Sandy Robinson, Administrative Secretary

James Merriam, Town Administrator opened the hearing at 11:00 A.M. and read the Hearing notice.

Mr. Merriam asked Ms. Corriveau if anything had changed in the plans sent to the Town. Ms. Corriveau advised that she had made an error in the street number of the property that would be receiving service — it was not 22 Shore Road Extension, but 11 Shore Road Extension. It was noted that an additional notice went to all the abutters (Certified Mail) advising them of this error. All other material in the original notice was correct including the map.

There were no abutters in attendance, and no testimony was offered. Therefore, Mr. Merriam closed the hearing at 11:07 A.M.

Submitted by: Sandy Robinson Administrative Secretary

TOWN OF HARWICH NOTICE OF PUBLIC HEARING MARCH 7, 20122-1

Pursuant to M.G.L. Ch. 166, § 22, the Town Administrator will hold a Public Hearing at 11:00 AM on Thursday, March 7, 2013 in the Harvich Town Hall Library, 732 Main Street, Harvich, MA in reference to the following matter:

A petition by NSTAR ELECTRIC COMPANY requesting permission to locate underground cables, conduits and manholes, including the necessary sustaining and protecting fixtures; in the under, along and across the following public way or ways:

22 SHORE ROAD EXTENSION

PROPOSED: Install 45' of underground cable and condult under Shore Road Ext.

All abutters and other interested persons are invited to attend. For further information, please call the Town Administrator's Office at (508), 430-7513 or stop by Town Hall, 732 Main Street; Harwich where the information is on file.

James R. Merriam Town Administrator

The Cape Cod Chronicle Feb. 21, 2013

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JAMES R. MERRIAM, Town Administrator

732 Main Street, Harwich, MA 02645



MEMO

TO:

Abutters

FROM:

Town of Harwich

RE:

Nstar Utility Hearing - Shore Road Extension March 7, 2013

DATE:

February 22, 2013

Please be advised that the Certified Abutters Notice you received regarding the Utility Hearing scheduled for March 7, 2013 contained an error in the description of the location. The location of the new service is <u>11 Shore Road Extension</u> as was indicated correctly on the MAP. The written notice should have read as follows:

TOWN OF HARWICH NOTICE OF PUBLIC HEARING March 7, 2012

Pursuant to M.G.L. Ch. 166, § 22, the Town Administrator will hold a Public Hearing at 11:00 AM on Thursday, March 7, 2013 in the Harwich Town Hall Library, 732 Main Street, Harwich, MA in reference to the following matter:

A petition by NSTAR ELECTRIC COMPANY requesting permission to locate underground cables, conduits and manholes, including the necessary sustaining and protecting fixtures, in under, along and across the following public way or ways:

11 SHORE ROAD EXTENSION

PROPOSED: Install 45' of underground cable and conduit under Shore Road Ext.

James R. Merriam, Town Administrator

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James R. Merriam Town Administrator

Cape Cod Chronicle February 21, 2013



February 1, 2013

Board of Selectmen Town of Harwich 732 Main Street Harwich, MA 02645

Dear Board:

Herewith petition for permission to install approx. 45 of underground cable and conduit under Shore Road Ext., Harwich.

This petition requires a hearing and is necessary to provide a new underground feed for 22 Shore Road Ext.

Would your Board kindly act on this petition at its regular meeting?

If you have any questions please call me at 508-957-4522.

Sincerely,

Karen Corriveau

Right of Way Agent NSTAR ELECTRIC

Karin Corriveau

Enc.

PETITION FOR UNDERGROUND CABLE AND CONDUIT LOCATIONS

Barnstable, Massachusetts February 1, 2013
To the Board of Selectmen for the Town of Harwich, Massachusetts.

NSTAR ELECTRIC COMPANY

request permission to locate underground cables, conduits and manholes, including the necessary sustaining and protecting fixtures, in, under, along and across the following public way or ways:

Shore Road Ext., Harwich To install 45' of conduit and cable.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to install and maintain underground cables, conduits, and manholes, together with such sustaining and protecting fixtures as it may find necessary, said underground cables, conduits, and manholes to be installed in accordance with the plan files herewith marked Plan No. 103671 Dated December 6, 2013.

NSTAR ELECTRIC COMPANY

Kan and law Right of Way Agent

TOWN PLAN NO. DATE **HARWICH** DECEMBER 6, 2012 103671 - W/O # 1909906 Plan to accompany petition of N-STAR ELECTRIC COMPANY To install approximately 45' of underground cable & conduit under the town road from pole 171/1 to handhole 171/H1B via handhole 171/H1A KEY: Existing riser pole New handholes $(\!\!+\!\!\!)$ Cable & conduit COSTELLO 13 Shore Rd Ext 5 - P1 - 29 KUSHINSKY 12 Shore Rd Ext TARCA 11 Shore Rd Ext 5 - P1 - 13 5 - P1 - 28 PATEY 3 Shore Rd Lnde 5 - P4 - 2 (A) 171/H1B RONALTER 10 Shore Rd Ext 5 - P1 - 14 **DELORY** 7 Shore Rd Ext 171/H1A⊕ :171Xi **EVANS** 5 - P1 - 27 1 Shore Rd Lndg 5 - P4 - 1 SHORE ROAD SHORE ROAD 200 Feet 50 100 All lot lines are approximate Assessors map # 5 2.25" equals 200'

To: Board of Selectmen From: James R. Merriam Town Administrator

Re: Recommendation to award lease for Cranberry Valley golf Course Restaurant

Two price and non price proposals were received on February 22, 2013.

One proposal is from Country Club Elite, Inc. represented by Ian Philbrook from 90 Prell Circle, Brewster.

The second proposal was from Trattoria (Tavern) on the Green represented by Frank Tammaro, 87 High Bank Road, South Yarmouth.

Golf Committee members Clem Smith and Tom Johnson evaluated both non price proposals and have recommended Country Club Elite as highly advantageous in all six categories. The Golf Committee members are unanimous in their support for Country Club Elite.

Annual Lease payments are as follows:

	Country Club Elite	<u>Trattoria on the Green</u>
1 st year 2 nd year 3 rd year	7,500	16,500
2 nd year	7,500	17,000
3 rd year	7,500	17,500
1 st year option	7,500	18,100
1 st year option 2 nd year option	7,500	18,600

The Country Club Elite proposer has been operating the Bar and Restaurant at the Barnstable Golf Course and references indicate he is highly regarded.

Based upon the recommendations of the Golf Committee and its evaluators, I recommend an award of contract to Country club Elite for an initial 3 year term.



AGREEMENT OF LEASE

This AGREEMENT OF LEASE, made and entered into on this 18th day of March 2013, by and between the **TOWN OF HARWICH**, a municipal corporation organized under the laws of the Commonwealth of Massachusetts, by its **BOARD OF SELECTMEN**, with offices at 732 Main Street, Town Hall, Harwich, Massachusetts 02645, hereinafter called the **LESSOR**, and **COUNTRY CLUB ELITE**, hereinafter called the **LESSEE**.

WHEREAS, the LESSOR, as owner of a golf course known as the **Cranberry Valley Golf Course** located in the Town of Harwich, Massachusetts, is seeking a LESSEE to operate a food and bar service at said golf course that can serve the golfing community and the general public in a pleasing, efficient manner; and,

WHEREAS, the LESSEE is desirous of leasing a portion of the clubhouse building to operate said space as a restaurant for a three (3) year period with two (2) separate one (1) year options to be offered at the sole discretion of the LESSOR and the LESSOR is willing to lease said property to said LESSEE;

NOW THEREFORE, the parties agree as follows:

1. PREMISES

- 1.1: The premises are located at the end of the main foyer of the clubhouse at Cranberry Valley Golf Course at 183 Oak St., Harwich, Massachusetts, and shall consist of the dining room, bar, kitchen, storage room.
 - 1.2: The Foyer is not part of the leased premises.
- 1.3: For the purpose of this lease, the Women's Restroom and Men's Restroom located on the first floor of the aforementioned clubhouse, as well as the rear deck shall be considered common areas and the LESSEE and the LESSOR shall have equal access to said common areas, such as the back deck area.

2. TERM

- 2.1: The term of this lease shall be for three (3) years, commencing April 1, 2013 and terminating on March 31, 2016.
- 2.2: The right to exercise the options of two (2) additional and separate one (1) years will rest solely with the LESSOR with Guidance from the Golf Committee and Director of Golf Operations. Notice to exercise the option will be made in writing 90 days prior to the expiration of the lease.
- 2.3: The LESSEE will have the right to refuse the Option if they choose to do so, after it has been offered by the Lessor. The acceptance of the option, after given to the LESSEE must be confirmed 60 days prior to the expiration of the lease.

3. RENT

3.1: The LESSEE agrees to pay the LESSOR the sum of

Annual Lease Payment

1 st Year	\$7,500
2 nd Year	\$7,500
3 rd Year	\$7,500
TOTAL	\$22,500
First Year Renewal Option	\$7,500
Second Year Renewal Option	\$7,500

4. UTILITIES,

- **4.1:** LESSEE agrees to pay LESSOR 50% of building utilities when concessions are operational. See page 11 Utilities.
- 4.2: LESSEE agrees that the provision of the above utilities is subject to interruption due to any accident, to the making of repairs, alterations or improvements, to labor difficulties, to trouble in obtaining fuel, electricity, service or supplies from the sources from which they are usually obtained for said building, or to any cause beyond the LESSOR'S control.

5. TAXES. - RESERVED

6. SECURITY DEPOSIT.

- **6.1:** LESSEE shall tender the LESSOR a security deposit in the amount of Five Thousand (\$5,000.00) Dollars upon the execution of this lease, to be paid by a certified check.
- 6.2: Said security deposit shall be held by LESSOR in a separate interestbearing account as security for the LESSEE'S performance under this lease. At the LESSOR'S sole option, said security deposit may be used by the LESSOR to fulfill any of LESSEE'S obligations under this lease which LESSEE fails or refuses to fulfill, without prejudicing any other remedies available to LESSOR under this lease or at law.
- 6.3: Said security deposit shall be refunded to the LESSEE with whatever interest that has accrued at the end of the lease, minus any and all deductions that LESSOR has made under paragraph 6.2 above and further subject to LESSEE'S full compliance with the terms, conditions, provisions and covenants of this lease agreement.

7. USE OF LEASED PREMISES.

7.1: The LESSEE shall use the leased premises only for the purpose of operating a restaurant business under the terms and conditions set forth herein.

- 7.2: The LESSEE agrees that no electronic games shall be installed upon the leased premises without the permission of the Golf Committee
 - 7.3: Gambling shall be expressly prohibited on the lease premises
 - 7.4: The leased premises shall be used and conducted in a dignified manner.
 - 7.5: The LESSEE will not permit any disorderly conduct in the leased area.
- 7.6: No entertainment shall be permitted on the leased premises without the prior written approval of the LESSOR and without the LESSEE obtaining the appropriate entertainment licenses from the Town of Harwich Licensing Authority.
- 7.7: Any entertainment furnished by the LESSEE shall be in good taste and acceptable to the standards of a publicly owned building.
- 7.8: LESSEE shall be solely responsible for any and all costs relating to the operation of the leased premises including, but not limited to, the costs of equipment, materials, supplies, repairs, taxes, licensing fees, attorney's fees, all food items, housekeeping supplies, dishwasher supplies, glassware and china, utensils, pots & pans, insurances, office supplies, sanitation supplies, food service equipment rental, silverware replacement, paper supplies, menu paper and printing, telephone service and printing costs.
- 7.9: The LESSEE agrees that it will assure that all deliveries to the leased premises shall only be made during regular hours of operation.
 - 7. 10: It is expressly understood by the LESSEE that the LESSOR makes no guarantees or warranties concerning the availability of the golf course for use by the public during the term of this lease agreement. It is, however, understood by both parties that it is the LESSOR'S desire to open the facility for public use as soon as the golf course is ready for play and at all normal times, weather permitting.
 - 7.11: Smoking shall be expressly prohibited on the leased premises.

8. COMPLIANCE WITH LAWS.

- 8.1: The LESSEE agrees to conduct its operation hereunder in strict compliance with all laws, bylaws, ordinances, rules and regulations of all federal, state, regional and local authorities as from time-to-time are applicable and the LESSEE will procure and pay for all licenses, certificates and permits necessary for the conduct of its operations or construction hereunder and shall pay all charges assessed under federal, state, regional and local statutes, bylaws, ordinances, rules and regulations insofar as they are applicable.
- **8.2:** Failure of LESSEE to procure and maintain all necessary licenses and permits to operate a restaurant and bar service shall render this lease void.
- **8.3:** The LESSEE acknowledges that no trade or occupation shall be conducted in the leased premises or use made thereof which will be unlawful, improper, noisy or offensive, or contrary to any state, federal, regional law or any municipal bylaw or ordinance in force in the town in which the premises are situated.

9. HOURS AND DAYS OF OPERATION,

Unless subsequently agreed upon in writing by and between the parties, and subject to the terms and conditions of any licenses which the LESSEE may hold, the LESSEE agrees to the following terms and conditions concerning days and hours of operation:

- 9.1: The minimum hours of operation during which the LESSEE agrees to serve food to the public are as follows:
 - (a) December through March: no hours required, however concessionaire may open if weather warrants it.
 - (b) April: 5:30 A.M. through 5:00 P.M.
 - (c) May 1 through September 30: 5:30 A.M through 8:30 P.M.
 - (d) October: 7:00 A.M. through 7:00 P.M.
 - (f) November: 7:30 A.M. through 7:00 P.M.
- 9.2: The LESSEE agrees that it shall make no changes in the minimum hours of operation without the written consent of the LESSOR.
- 9.3: The LESSEE shall be open for business seven (7) days per week, except that said premises may be closed from December through March.
- 9.4: It is understood by and between the parties that the operation of the leased premises may be affected by weather conditions and that, by mutual agreement of the LESSEE and a duly authorized representative of the LESSOR, the LESSEE'S hours of operation on any given day may be less than, or greater than, that which is set forth above; subject to any restrictions as may be placed upon the LESSEE by local licensing authorities, which restrictions may, under no circumstances, be waived or altered by the parties hereto.

10. EQUIPMENT, FURNISHINGS AND FIXTURES.

- 10.1: Should the LESSEE determine that, in the conduct of its business under this lease, it shall need, require or desire to add new to replace worn out equipment within the kitchen, or any other portion of the leased premises, the LESSEE shall request the permission of the LESSOR to place any such equipment on the demised premises, specifically noting the exact nature and size of the equipment desired together with the cost of installation and maintenance thereof. The cost shall be borne solely by the LESSEE.
- 10.2: It shall be the responsibility of the LESSEE to provide inventories of dinnerware and utensils.
- 10.3: All equipment in the restaurant and related area, provided with this lease per the attached inventory, shall remain the property of the LESSOR. Any equipment purchased by the LESSEE shall remain the property of the LESSEE at the conclusion of the lease term. The LESSOR shall be consulted prior to the disposal of any LESSOR

owned equipment.

- 10.4: In the event that any such equipment is damaged or destroyed, regardless of the cause therefore, it shall be the responsibility of the LESSEE to repair (and maintain) or replace such equipment. Any such equipment which the LESSEE replaces shall remain the property of the LESSEE upon the conclusion of the lease term.
- 10.5: All equipment is required to be maintained in good, safe working order. An equipment repair to a single piece of equipment with a cost exceeding one thousand dollars (\$1,000) may be presented to the Director of Golf Operations in the same manner as a proposal to purchase new equipment, and if approved by the Director, may be offset against monies owed.

11. REPAIRS AND MAINTENANCE

- 11.1: The LESSEE has inspected the leased premises, acknowledges that the premises are now in good order, and accepts them in the condition that they are now in.
- 11.2: The LESSEE shall, throughout the term of this lease, at its own cost and without any expense to the LESSOR, keep and maintain the interior of leased premises, as delineated in Paragraph I herein, in a good, sanitary and neat order, condition and repair, free of debris and any and all other foreign matters; and further, the LESSEE agrees that said area shall be cleared of any such foreign matters of debris immediately as such are, or may be, caused to exist and shall make any and all repairs necessary to keep said premises in a good and satisfactory condition.
- 11.3: The LESSEE shall not permit the leased premises to be damaged, stripped or defaced, nor suffer any waste.
- 11.4: The LESSEE shall not overload the electrical wiring serving the leased premises or within the leased premises and will install, at its own expense, but only after receiving the written approval of the LESSOR, any additional electrical wiring which may be required in connection with LESSEE'S business.
- 11.5: The LESSEE agrees to vacuum the leased premises on a daily basis and to shampoo the carpet on the leased premises three times yearly or on a more frequent basis should the LESSOR determine that more frequent shampooing is required.
- 11.6: The LESSEE shall save the LESSOR harmless within the leased premises from all loss and damage occasioned by the use or escape of water or by the bursting of pipes, as well as from any claim or damage resulting from neglect in not removing snow or ice from the roof of the building or from the sidewalks bordering upon the premises so leased, or by any nuisance made or suffered on the leased premises.
- 11.7: The LESSEE shall provide a written formal sanitation program which meets or exceeds the minimum requirements of all state, federal, municipal or other agencies authorized to inspect and/or accredit the Restaurant and its food service facility.
- 11.8: The LESSEE shall have the premises exterminated once a month or every two weeks if deemed necessary by the LESSOR.

- 11.9: The LESSEE shall provide, subject to the approval of the LESSOR, a detailed plan for the preventative maintenance of all restaurant equipment located on the leased premises.
- 11.10: The LESSEE agrees that it is further understood that the LESSEE shall be solely responsible for maintaining all furniture on the leased premises in a neat, clean and attractive condition at all times during the term, of this lease.
- 11.11: The LESSEE shall be responsible for repairing or obtaining repairs on any restaurant equipment located on the leased premises at the LESSEE's expense.
- 11.12: It shall be the responsibility of the LESSEE for the repair and maintenance of all electrical and plumbing work that pertains to the function of the restaurant at the LESSEE's expense.
- 11.13: Upon the written request of the LESSEE or upon the failure of the LESSEE to perform necessary repairs and maintenance, and at the sole discretion of the LESSOR, LESSOR may undertake repair or maintenance of the leased premises. In the event that LESSOR, at its sole discretion, elects to undertake any such repair or maintenance, LESSEE shall bear the full cost for said repair or maintenance, including, but not limited to, the cost for labor and materials. Failure of the LESSEE to pay for the full cost of said repair and maintenance within ten (10) days of being billed for same, shall constitute grounds for the termination of this lease agreement.

12. ALTERATIONS

- 12.1: The LESSEE shall not make any structural alterations or additions to the leased premises, but may make non-structural alterations provided the LESSOR consents thereto in writing.
- 12.2: All such allowed non-structural alterations shall be at LESSEE'S expense and shall be of such quality at least equal to the present construction.
- 12.3: Any alterations or improvements made by the LESSEE shall become the permanent property of the LESSOR at the termination of occupancy as provided herein.
- 12.4: No signs shall be installed by LESSEE without the prior written consent of the LESSOR as to the size, type, design and location of said sign. If LESSEE either proceeds without the prior written consent of the LESSOR or installs a sign that does not conform with the specifications approved by the LESSOR, the LESSOR may enter the leased premises to remove any such unauthorized sign and to restore the premises to their former condition. The LESSOR shall bill the LESSEE for any and all costs incurred in so removing any such unauthorized sign.
- 12.5: The LESSEE shall not permit any mechanics, liens or similar liens, to remain upon the leased premises for labor and material furnished to the LESSEE or claimed to have been furnished to the LESSEE in connection with work of any character performed or claimed to have been performed at the direction of the LESSEE and shall cause any such lien to be released of record forthwith without cost to the LESSOR.
 - 12.6: Prior to the commencement of any nonstructural alterations for which the

LESSEE has received the LESSOR'S written approval, the LESSEE shall obtain the LESSOR'S consent as to the date and time of the proposed work to assure that such work does not interfere with any other of the LESSOR'S activities.

13. LIGHTING

13.1: The LESSEE shall, at its sole expense, repair or replace as may be required, all electrical or incandescent light bulbs or fluorescent tubes or other lighting devices located within the leased premises.

14. REFUSE DISPOSALAND TEMPORARY STORAGE OF RECYCLABLES

- 14.1: The LESSEE shall be responsible for all disposal and removal of trash related to the food and bar concession. Such responsibility shall include trash disposal and removal from the leased premises. The grounds surrounding the deck and terrace shall be maintained in a neat and clean condition, free of all debris and other foreign matter.
- 14.2: The LESSEE shall deposit its trash in the dumpster at Cranberry Valley Golf Course. The LESSEE shall deposit said trash on a regular basis so that no refuse will be allowed to accumulate as to constitute a fire or health hazard within the leased premises or to create an unsightly appearance on the leased premises.
 - 14.3: LESSEE agrees to pay charges for a dumpster for trash collection.
- 14.4: The LESSEE shall provide appropriate receptacles for temporary storage of recyclable materials, including, but not limited to, cans and bottles. Said receptacles shall be appropriately designed and constructed to handle the types of recycled materials stored therein. Containers must be made of rodent-proof material, such as metal or plastic, and of sufficient strength to bear the weight of stored material without cracking or breaking and to resist puncturing by normal deposit of materials.
- 14.5: Receptacle construction and placement must pose no danger to the public, and shall comply with all building and fire codes. Receptacles shall be topple proof at full load. Prior to the installation of any such receptacles, LESSEE shall obtain prior written approval for the proposed design and location of said receptacles.
- 14.6: The area surrounding the receptacles for temporary storage of recyclable materials shall be maintained in a clean and sanitary manner at all times. No recyclable materials shall be allowed to accumulate around any receptacle or to overflow from any receptacle.

15. GLASS

- 15.1: The LESSEE shall be solely responsible for all glass in or within the premises and for all the LESSEE'S property located in or upon the leased premises.
- 15.2: The LESSEE shall be responsible for the repair and replacement of any broken or cracked windows, caused by any act or omission of the LESSEE, its agents, servants or employees, within or on the demised premises, all at its own cost. The LESSEE shall also be responsible for assuring that all such windows are cleaned, both

the interior and exterior side, on at least a weekly basis.

16. LESSOR'S ACCESS

- 16.1: The LESSOR or agents of the LESSOR may, at all reasonable times, enter upon the leased premises for the purpose of access to common areas in and around the leased premises.
- 16.2: The LESSOR or agents of the LESSOR may, at all reasonable times, enter to view and inspect the leased premises and make repairs and alterations as the LESSOR should elect to do and may show the leased premises to others.

17. FOOD

- 17.1: All meals prepared shall be nutritionally appropriate, attractively presented, varied sufficiently to avoid boredom, and must be presented with sufficient alternatives to allow for individual differences in tastes.
- 17.2: All food purchased by the LESSEE for use at the leased premises shall meet the following minimum specifications:

Meat, lamb, beef, veal	USDA Choice
Pork	US #1
Poultry, eggs, dairy products	Grade A
Canned vegetables	
Frozen Vegetables	Grade A
Fresh produce	#1 Quality

All other food purchases must be of comparable quality.

- 17.3: The LESSEE is responsible for the receipt and storage, inventory control, and use of all food and other products consumed at the restaurant.
- 17.4: The prices and food offerings on the concession and bar menu, attached hereto as Menu Exhibit to Lease, and incorporated by reference herein, shall not be changed by LESSEE without the written approval of the LESSOR. Any new menu so approved by the LESSOR shall be incorporated into this lease agreement through a written amendment to said agreement.
- 17.5: Any disposable products used on the leased premises shall be made from recyclable materials and shall be recyclable and biodegradable.
 - 17.6: Minimum Food Service of Breakfast and Lunch must be provided.

Memorial Day weekend through Labor Day weekend

18. RESPONSIBLE ALCOHOLIC BEVERAGES SERVICE PROGRAM

18.1: The LESSEE shall assure that all its employees participate in a "Responsible Alcoholic Beverages Service Program" at least annually, unless the LESSOR, at its sole discretion, prescribes more frequent intervals.

18.2: If a new employee is hired by the LESSEE, said employee shall participate in a "Responsible Alcoholic Beverages Service Program" as a condition of said employee's continued employment.

19. RECORDS AND REPORTS

- 19.1: The LESSEE shall and hereby agrees to keep in the leased premises during the term hereof, or at a location (made known to the LESSOR by the LESSEE), in the Town of Harwich, for a period of three consecutive years following the end of each lease year, a permanent, complete and accurate record of all sales of merchandise and service and all revenue derived from business conducted in the leased premises for such lease year. LESSEE further agrees to keep, retain and preserve for at least one year after the expiration of this lease, all original sales records and sales slips or sales checks and other pertinent original sales records. All such records, including sales tax reports and business and occupation tax reports, shall be open to the inspection and audit of LESSER and its agents at all reasonable times during ordinary business hours.
- 19.2: The term "gross sales" is the entire amount of the actual sales price, whether wholly or partly for cash or on credit, of all sales of merchandise and services and all other receipts of all business conducted in or from the leased premises, including all deposits not refunded to purchasers, orders taken in or from the leased premises although said orders may be filled elsewhere, and sales by any sub lessee, concessionaire or licensee in or from the leased premises, and all without credit to the LESSEE for uncollected or uncollectible credit accounts. There shall be excluded from "gross sales" any sums collected and paid out for any sales tax or tax based upon the sale or sales of merchandise and required by law, whether now or hereafter in force, to be paid by the LESSEE or collected from its customers, to the extent that such taxes have been added to and included in the gross sales price. Gratuities from inclusive priced functions shall also be excluded from "gross sales".
- 19.3: The LESSEE shall submit to the LESSOR in a reasonable amount of time, not to exceed ninety (90) days following the end of the first twelve months of this lease, at the place then fixed for the payment of rent, a Review-type Financial Statement and a Certification that all taxes, notes and vendor invoices are current, prepared and signed by a certified public accountant and signed by LESSEE, showing in reasonably accurate detail the amount of gross sales during the preceding lease year and fractional lease year, if any, and shall submit, in a reasonable amount of time, not to exceed ninety (90) days following the expiration or termination of the term, a like statement covering the preceding fractional lease year, if any.
- 19.4 The gross sales from this quarterly reporting will be the basis for determining the amount of additional lease that is due to the LESSOR based on the percentage of gross sales as stated in the pricing portion of this agreement. Payment will be made at this time to the LESSOR at the location designated by the LESSOR.
- 19.5: The LESSEE shall submit to the LESSOR in a reasonable amount of time, not to exceed ninety (90) days following the end of the first twelve months of this lease and subsequently at the end of each lease year ending December 31st, at the place then fixed for the payment of rent, a Review-type Financial Statement and a Certification that all taxes, notes and vendor invoices are current, prepared and signed by a certified

public accountant and signed by LESSEE, showing in reasonably accurate detail the amount of gross sales during the preceding lease year or fractional lease year, if any, including the final lease year, including all option years.

20. INDEMNIFICATION OF LESSOR

- 20.1: The LESSOR shall not be liable for any loss, injury, death or damage to persons or property which at any time may be suffered or sustained by the LESSEE or by any person whosoever may at any time be using or occupying or visiting the demised premises or be in, on or about the same, whether such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission or negligence of the LESSEE or of the LESSEE'S contractors, licensees, agents, servants, employees, occupants, sub-tenants, visitors, invitees, guests, or users of any portion of the premises, or shall result from or be caused by any accident, injury or damage or any other matter or thing whether of the same kind as or of a different kind than the matters or things set forth above, and the LESSEE shall indemnify and save harmless the LESSOR from and against all claims, liability, loss or damage whatsoever on account of any such loss, injury, death or damage during the term hereof in or about the leased premises.
- 20.2: The LESSOR shall not be liable to the LESSEE or to any other person for any injury, loss or damage to any person or property on or about the demised premises or the building of which the demised premises are a part or the approaches, sidewalks, patios or appurtenances thereto;
- 20.3: The LESSEE shall save the LESSOR, as owner of the demised premises, harmless and indemnified from and against all loss or damage occasioned by the use or misuse of water or any plumbing, heating or cleaning apparatus, gas or electric fixtures, leaking or bursting pipes or otherwise occasioned by any nuisance made or suffered by or from the demised premises.
- 20.4: This indemnity and hold harmless agreement shall include indemnity against all reasonable costs, expenses and liability incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof, including reasonable attorneys' fees.
- **20.5:** The LESSEE shall pay to the LESSOR, on demand, for any damage caused to any portion of the leased premises, or to any portion of the entire areas known as Cranberry Valley Golf Course, incurred as a result of the LESSEE'S operation, and or occupancy, of the demised premises.

21. INSURANCE.

- 21.1: The LESSEE shall carry and maintain during the duration of the contract, insurance as specified below and in such form as shall protect him and any subcontractor performing work covered by this contract, or the LESSOR, from all claims and liability for damages for bodily injury, including accidental death and for property damage, which may arise from operations under this contract, whether such operations be by itself or by any subcontractor or by anyone directly or indirectly employed by either of them. Except as otherwise stated, the amount of such insurance shall be for each policy not *less* than:
- a. For liability for bodily injury including accidental death, \$1,000,000.00 for any

- one person and, subject to the same limit for each person, \$2,000,000.00 on account of one accident.
- b. For liability for property damage, \$1,000,000.00 on account of any one accident and \$2,000,000.00 on account of all accidents.
- c. Bodily Injury and Property Damage Insurance covering of all motor vehicles owned by the LESSEE in the amounts required in "21.1.a." and "21.1.b." above.
- d. Insurance in the amounts required in "21.1.a." and "21.1.b." above to cover bodily injuries and property damage resulting from the use of motor vehicles not owned by the LESSEE, while such vehicles are being operated in connection with the prosecution of the work under this contract.
- e. Owner's Protective Insurance secured by the LESSEE in behalf of the LESSOR, which will directly protect the lessor from liability for bodily injuries including accidental death in the amounts required in "21.1.a." above and for property damage in the amounts required in "21.1.b." above.
- f. All policies shall be so written so that LESSOR is listed as an additional insured and so that the LESSOR will be notified of cancellation or restrictive amendment. Certificates in triplicate from the insurance carrier stating the limits of liability and expiration date must accompany all bids. Such certificates shall not merely name the types of policy provided, but shall specifically refer to this contract and article and the above paragraphs in accordance with which insurance is as required by such paragraphs of this contract. The LESSEE shall maintain a public liability insurance policy on the premises with coverage limits of not less than \$1,000,000.00 per person and \$2,000,000.00 per occurrence and the LESSOR named insured on said policy.
- g. The LESSEE agrees, as a condition of this lease, to provide to the LESSOR a certified copy of said insurance policy, showing the LESSOR as a named insured, at the time of the execution hereof, and further the LESSEE agrees to provide verification of the continued existence of said policy at any time as such may be requested by the LESSOR. All such insurance certificates shall provide that such policies shall not be cancelled without at least thirty (30) days prior written notice to each insured named therein.
- h. The LESSEE shall maintain Liquor Law Liability Insurance in the amount of \$1,000,000.00 occurrence and \$2,000,000.00 aggregate.
- 21.2: The LESSEE further agrees to maintain any and all worker's compensation insurance in accordance with the Massachusetts General Laws and to provide the LESSOR with proof of same within thirty (30) days of the execution of this lease.

22. FIRE INSURANCE

22.1: The LESSEE shall not permit any use of the leased premises which will make voidable any insurance on the property of which the leased premises are a part, or on the contents of said property, or which shall be contrary to any law or regulation from time to time established by the New England Fire Insurance Rating Association, or any similar body succeeding to its powers. The LESSEE shall, on demand, immediately remove said cause or reimburse the LESSOR for all extra insurance premiums caused by the LESSEE'S use of the premises.

23. ASSIGNMENT-SUBLEASING

- 23.1: The LESSEE shall not assign or sublet the whole or any part of the leased premises.
- 23.2: Any attempted assignment by LESSEE shall be void and shall, at the option of the LESSOR, terminate this lease.
- 23.3: Neither this lease nor the leasehold estate of LESSEE nor any interest of LESSEE hereunder in the leased premises or any buildings or improvement thereon shall be subject to involuntary assignment, transfer or sale or to assignment, transfer or sale by operation of law in any manner whatsoever, and any such attempted involuntary assignment, transfer, or sale shall be void and of no effect and shall, at the option of the LESSOR, terminate this lease.

24. FIRE, CASUALTY

- 24.1: Should a substantial portion of the leased premises or of the property of which they are a part, be substantially damaged by fire or other casualty, the LESSOR may elect to terminate this lease.
- 24.2: When such fire or casualty renders the leased premises substantially unsuitable for their intended use, the LESSEE may elect to terminate this lease if:
 - (a) The LESSOR fails to give written notice within thirty (30) days of intention to restore the leased premises; or,
 - (b) The LESSOR fails to restore the leased premises to a condition substantially suitable for their intended use within ninety (90) days of said fire or casualty.
- 24.3: The LESSOR reserves, and the LESSEE grants to the LESSOR, all rights which the LESSEE may have for damages or injury to the leased premises, except for damage to the LESSEE'S fixtures, property or equipment.

25. BANKRUPTCY

25.1: If a petition shall be filed by or against the LESSEE under the Federal Bankruptcy Act or acts amendatory thereof or supplemental thereto, or if any assignment shall be made of the LESSEE'S property for the benefit of creditors, or if a receiver, guardian, conservator or other similar officer shall be appointed to take charge of all, or

any portion of the LESSEE'S property by a court of competent jurisdiction, then, in any such case, the LESSOR lawfully may, immediately, or at any time thereafter, without the need of demand or notice, enter into and upon the demised premises or any part thereof in the name of the whole, repossess the same and expel the LESSEE and remove LESSEE'S goods, equipment and effects without being guilty of any manner of trespass and without prejudice to any remedies which might otherwise be used for arrears of monthly payments or preceding breach of covenant, and upon such entry this lease shall be deemed terminated.

26. DEFAULT BY LESSEE

- 26.1: In the event that the LESSEE shall default in the payment of any installment of rent or other sums herein provided for, and said default shall continue for ten (10) days, or if the LESSEE shall default in the observance or performance of any other of the LESSEE'S covenants, agreements or obligations hereunder, and such default shall continue for thirty (30) days, or if the LESSEE shall be declared bankrupt or insolvent according to the law, or shall enter an assignment for the benefit of creditors, then the LESSOR shall have the right thereafter to enter and take complete possession of the leased premises pursuant to any process required by law and to terminate this lease and/or remove the property of the LESSEE, without prejudicing any other remedies available under this lease or at law, for arrears of rent or other damages.
- 26.2: The LESSEE shall indemnify the LESSOR against all loss of rent and other payments which the LESSOR may incur by reason of such termination during the residue of the term of this lease or any extension thereof.
- 26.3: If the LESSEE shall default in the observance or performance of any conditions or covenants on LESSEE'S part to be observed or performed under or by virtue of any of the provisions of this lease, the LESSOR, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the LESSEE. If the LESSOR makes any expenditures or incurs any obligations for the payment of money in connection therewith, including, but not limited to, reasonable attorneys, fees in instituting, prosecuting or defending any action or proceedings, such sums paid or obligations incurred, with interest at the rate of twelve (12) percent per annum and costs, shall be paid to the LESSOR by the LESSEE forthwith as additional rent.
- **26.4:** Failure on the part of the LESSOR to complain of any action or nonaction on the part of the LESSEE, no matter how long the same may continue, shall never be deemed to be waiver by the LESSOR of any of its rights hereunder.
- 26.5: No waiver at any time of any of the provisions hereof by the LESSOR shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of the LESSOR to or of any action by the LESSEE requiring the LESSOR'S consent or approval shall not be deemed to waive or render unnecessary the LESSOR'S consent or approval to or of any subsequent similar act by the LESSEE.

26.6: No payment by the LESSEE or acceptance by LESSOR of a lesser amount than shall be due from LESSEE to LESSOR shall be treated otherwise than as a payment on account. The acceptance by the LESSOR of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full shall be given no effect, and the LESSOR may accept such check without prejudice to any other rights or remedies which LESSOR may have against the LESSEE.

27 YIELDING UP THE PREMISES

- 27.1: Upon the expiration of this lease, the LESSEE shall yield up and deliver the leased premises and all keys, locks thereto, and other fixtures connected therewith, and all alterations and additions made to or upon the leased premises vacant and unencumbered, clean, neat, and in good condition. All equipment must be clean and operational and facilities clean.
- 27.2: The LESSEE shall, at the expiration or other termination of the lease, remove all the LESSEE'S goods and effects from the leased premises (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the leased premises).
- 27.3: In the event of the LESSEE'S failure to remove any of the LESSEE'S property from the premises, the LESSOR is hereby authorized, without liability to the LESSEE, for loss or damage thereto, and at the sole risk of the LESSEE, to remove and store any of the property at the LESSEE'S expense or to retain same under LESSOR'S control or to sell at public or private sale, without notice, any or all of the property not so removed and to apply the net proceeds of such sale to the payment of any sum due hereunder, or to dispose of such property.

28. NON-DISCRIMINATION

28.1: The LESSEE covenants and agrees that it will not exercise or permit its officers, agent or employees to exercise any discrimination against any person because of race, sex, national origin, age, marital status, sexual orientation, disability or religion in the course of its use of the premises or its operations at the leased premises.

29. NOTICES

29.1: Any notice from the LESSOR to the LESSEE relating to the leased premises or to the occupancy thereof, shall be deemed duly served if left at the leased premises addressed to the LESSEE or, if mailed to the leased premises by registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSEE. Any notice from the LESSEE to the LESSOR relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if mailed to the LESSOR by registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSOR at Cranberry Valley Golf Course, Office of Director of Golf Course Operations, 183 Oak Street, Harwich, MA 02645 or to such other address as either party may specify to the other by notice given as provided herein.

30. SEVERABILITY.

30.1: If any provisions of this lease shall to any extent be held invalid or unenforceable, the remainder of this lease shall not be deemed affected thereby.

31. CONSTRUCTION OF LEASE

31.1: This lease shall be governed by and construed and enforced in accordance with

the laws of the Commonwealth of Massachusetts.

32. MODIFICATION OF LEASE

32.1: This instrument contains the entire agreement between the parties and supersedes all prior or contemporaneous oral or written agreements, and it may not be modified except in writing and signed by all parties.

33. MISCELLANEOUS OBLIGATIONS OF LESSEE

- 33.1: If the LESSEE'S operations hereunder cause or in any way bring about an increase in the LESSOR'S insurance premiums covering the premises, the LESSEE shall pay the resultant increase. Any amounts due the LESSOR under this paragraph shall constitute additional rent and shall be payable within thirty (30) days of notice to the LESSEE.
- 33.2: The LESSEE shall not, during the term of this lease, hire or employ on either a full-time or part-time basis, any employees of the LESSOR regardless of whether such employee of the LESSOR be full-time or part-time employees.
- 33.3: The LESSEE shall not, without the LESSOR'S prior written approval, refer to the LESSOR in any advertising, letterheads, bills, invoices or other printed matter.
- 33.4: The LESSEE shall be required during the term of this lease to take such reasonable security precautions with respect to its operations at the leased premises as LESSOR, in its discretion, might from time to-time require.
- 33.5: The LESSEE shall name a Principal or approved manager that will be present on site a minimum of 40 hrs weekly for the period of Memorial Day weekend through Labor Day weekend. From March 15th through Memorial Day weekend and from Labor Day weekend through December 14th, the schedule shall be as mutually agreed upon between the LESSEE and LESSOR. If the LESSEE plans on providing concession services between December through March, a work schedule of the assigned representative responsible for the operation must be presented to the Golf Course Management on the first day of each month.

TOWN OF HARWICH, LESSOR, By its BOARD OF SELECTMEN,	
FOR THE LESSEE:	
APPROVED AS TO FORM:	

Sandy Robinson

From: Jean Anne Mclaughlin [mclaughlin@capecoddisability.org]

Sent: Saturday, March 09, 2013 9:13 AM

To: adoucette@town.harwich.ma.us; srobinson@town.harwich.ma.us; Paul Erickson

Cc: Jean Anne Mclaughlin

Subject: Resignation

TWIMC: March 9, 2013

Please accept this letter of my resignation from the Harwich Disability Rights Committee. At this time due to acute chronic eye

infection, I cannot fulfill my duties on this committee as the treatment for this condition is daily and aggressive.

Perhaps in the future there will be positive changes and I will be able to serve the town, but I must relinquish my position currently so that another may be appointed. I am honored to have been able to serve the town for many years, and hope that I will be able to do so in the future. Until then, please accept my resignation. Thank you.

Access Always,

Jean Ann McLaughlin
President & CEO of
JAM Specialists INC.
publishers of the
Cape Cod Disability Access Directory
Jam@capecoddisability.org



Harwich Recreation Department Youth, Park, Beach, & Commission



Memo

DATE:

March 7, 2013

TO:

Harwich Board of Selectmen

PHONE:

508-430-7513

FROM:

Lee Ames

Executive Assistant, Recreation and Youth

508-430-7553

PHONE:

RE:

Long Pond 2013 Bass Tournaments

GROUP	DATE	PAID
Avid Anglers	3/30/13	CK# 255
Avid Anglers	4/20/13	CK# 255
Bass Bums	4/28/13	CK# 196
American Bass Anglers	5/05/13	CK# 545
Silver City Bass	5/11/13	CK# 1130
Happy Hookers Bass Club	5/18/13	CK# 1111
Mass Fish Finders	5/19/13	CK# 931
Fall River Bass Anglers	5/26/13	CK# 339
Coventry Bass Anglers	6/09/13	CK# 2852
Silver City Bass	9/15/13	CK#1130
Bay State Rodbenders	9/22/13	CK# 3897
Coventry Bass Anglers	9/28/13	CK#2852
The Bass Club	9/29/13	CK#4154
American Bass Anglers	10/06/13	CK# 545
South Shore Bassmasters	10/05/13	CK# 2717
Happy Hookers Bass Club	10/12/13	Ch# 1111
Mass Fish Finders	10/13/13	CK# 931
Fall River Bass Anglers	10/20/13	CK# 339

Cc:

John Rendon, Harwich Harbormaster

Chief Mason, Harwich Police

100 Oak Street

Harwich, MA 02645

Fax 508-430-7579

Director:

Eric J. Beebe 508-430-7552

ebeebe@town.harwich.ma

Executive Assistant:
Lee A. Ames 508-430-7553
Ihemeon@town.harwich.ma.us

Recreation Program Specialist: Susan H. Fraser 508-430-7554 sfraser@town.harwich.ma.us

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114 617-626-1700 fax: 617-626-1850 www.mass.gov/agr



DEVAL L. PATRICK Governor TIMOTHY P. MURRAY

RICHARD K. SULLIVAN JR. Secretary

GREGORY C. WATSON Commissioner

March 5, 2013

RE: NOMINATION OF INSPECTOR OF ANIMALS

Nominating Authority:

Enclosed is the nomination form for the Inspector of Animals for your city or town. This form is due back to the Division of Animal Health by April 1, 2013. The appointment will run from May 1, 2013 until April 30, 2014. If more than one inspector was appointed for your city or town, there is a separate form provided for each. If you are nominating the same inspector(s) this year, be sure that all of the contact information is complete and still correct. Any corrections should be made in the space provided on the right. If you will be nominating a new inspector, that person's information should be entered in the space provided on the right. Submit a separate form for each inspector nominated. Also, be sure that all of your (nominating authority) information is complete and correct. Any changes to your information should be made in the space provided to the right.

Once all of the contact information is confirmed to be correct, all that is needed is to have the nominee sign the form, accepting the nomination and swearing to faithfully perform the duties of that office. The nominee's signature must be notarized. In many cases the city or town clerk is a notary.

After the nominee's signature has been notarized, simply return the form to the Division of Animal Health at the address listed at the top of the form. The Division of Animal Health will send back confirmation of the inspector's appointment. Please note that regardless of when the most recent appointment was made, it is only valid through April 30, 2013. This nomination will cover the year starting May 1, 2013 and run until April 30, 2014.

If you have any questions, please call Elsie Colon at (617) 626-1810

Thank you,

Michael Cahill, Director Division of Animal Health



The Commonwealth of Massachusetts

Department of Agricultural Resources Division of Animal Health 251 Causeway Street, Suite 500 Boston, MA 02114-2151

Nomination of Inspector of Animals

In accordance with the Massachusetts General Laws Chapter 129, sections 15 and 16, nominating authorities of each city and town are required to nominate one or more inspectors of animals by April 1, 2013. Please complete or make necessary changes and return this form to the above address. The Director will review your nomination and, assuming appointment is confirmed, will return to you a Certificate of Appointment. Please submit one form for each person nominated. Any city or town not in compliance is subject to a penalty of \$500.

City or Town of Harwich

3/5/2013

To the Director, Division of Animal Health, Department of Agricultural Resources

In accordance with the provisions of section 15 of Chapter 129, General Laws, as amended, the following nomination of

inspector of animals for the year ending April 30, 2014 is sen	t for your approval:
Inspector of Animals Name: John Burns Mail Address: 183 Sisson Rd. Harwich, MA - 02645	Inspector: (Note all changes here) Name: Mail:
Phone: (508) 430-7541 Fax:(508) 432-2530 Email: burns@harwichpolice.com	Phone: Fax: Email:
Nominating Authority Contact: James R. Merriam Office: Town Administrator's Office Mail: 732 Main St. Harwich, MA - 02645 P: (508) 430-7513 F: (508) 432-5039	Nominating Authority: (Note all changes here) Contact: Office: Mail: Phone: Fax:
Email: jmerriam@town.harwich.ma.us	Email:
solemnly swear to faithfully perform the duties of that office, a Massachusetts Regulations 330 CMR 10.00-10.10 (rabies re Name (print) しいい 「ちゅん」	gulations). / / / / (
Barnstable,ss	Date: 3 11 13
Then personally appeared the above-named	and acknowledged the leed, before me. Notary Public My commission Expires: 3 18 16
Appointment of Inspector of Animals (Division of Notice is hereby given that I, Michael Cahill acting under auth Laws, as amended, hereby approve the nomination ofTown of Harwich, Massachusetts.	nority of sections 15 and 16 of Chapter 129 of the General
	Director, Division of Animal Health

PLANNING BOARD • 732 Main Street, Harwich, MA 02645

ph: 508-430-7511 fax: 508-430-4703

MAR 14 2013

SELECTIACH / ADMINISTRATOR'S OFFICE



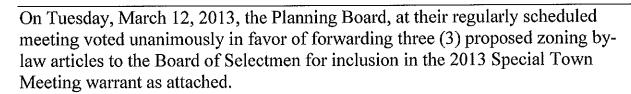
MEMO

To: Board of Selectmen

From: Matthew F. McCaffery, Chairman

Date: March 14, 2013

RE: Planning Board Report on Article #12, 13, 14



A public hearing on the proposed articles is scheduled for Tuesday, April 9, 2013.

Article #12 Accessory Apartments Article #13 Special Permits Article #14 Panhandle Lots

cc: M. Ford

Town Clerk

ACCESSORY APARTMENTS

<u>Underlined words</u> indicate language proposed for insertion <u>Italicized Words with Strike Through</u> indicate language proposed for deletion

<u>ARTICLE 9</u> To see if the Town will vote to amend the Code of the Town of Harwich, Chapter 325 Zoning as set forth below and to act fully thereon. By request of the Planning Board.

Explanation: Standards for accessory apartments currently occur in three separate locations within the zoning by-law. These amendments combine all standards into one section under Special Permits. Specific changes include requirements for ownership and rental of units, septic systems, minimum lot size, entry location, and appearance of the property. A new provision is added to require a special permit for residential accessory buildings with bedrooms.

Revise ARTICLE II, Section 325-2, Definitions – DWELLING, ONE-FAMILY WITH ACCESSORY APARTMENT and Tables 1 and 2. Delete ARTICLE IV, Section 325-7.B, and ARTICLE X, Sections 325-51.H and 325-51.I, Special Permits, in their entirety. Add new sections under ARTICLES V and X to read as follows:

ARTICLE II. Definitions. [revised]

DWELLING, ONE FAMILY WITH ACCESSORY APARTMENT - An owner-occupied residential dwelling containing a principal dwelling unit, either attached or detached, one of which has a net floor area not exceeding ½ of the net floor area of the principal dwelling unit but in no event more than 900 square feet and includes not more than two (2) bedrooms, a kitchen, living room and bath which are separate from and not used in common with the principal dwelling. The principal dwelling and the detached accessory apartment must share a common septic system. For the purpose of this definition, such dwelling shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year round basis, except for bona fide temporary absence during which the owner's unit is not rented.

<u>DWELLING</u>, <u>SINGLE-FAMILY WITH ACCESSORY APARTMENT – A single-family dwelling containing a principal dwelling unit and a separate accessory apartment, either attached or detached. The apartment shall contain a kitchen and bathroom which are separate from and not used in common with the principal dwelling unit.</u>

ARTICLE V. Use Regulations [new]

325-14. Supplemental regulations.

Q. A residential accessory building that contains bedrooms is subject to special permit review pursuant to Section 325-51. Residential accessory buildings without bedrooms are not subject to special permit review.

ARTICLE X. Administration and Enforcement. [new]

325-51. Special permits.

H. Single-family Dwelling with Accessory Apartment

- (1) Purpose. The intent of permitting accessory apartments is to:
 - (a) Increase the number of small dwelling units available for rent in town;
 - (b) Increase the range of choice of housing accommodations;
 - (c) Encourage greater diversity of population with particular attention to young adults and senior citizens; and
 - (d) Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the town's single-family neighborhoods.

(2) Definitions.

(a) "Owner" shall be one (1) or more individuals holding title to the property.

(3) Criteria for Special Permit Approval

Special permits for single-family dwellings with an accessory apartment, either attached or detached, may be granted upon determination by the Planning Board that the following criteria have been met:

- (a) Only one accessory apartment is permitted for each principal dwelling unit.
- (b) The accessory apartment may not be held in separate ownership from the principal use.
- (c) The owner must reside in either the principal dwelling unit or accessory apartment for at least a portion of the year. Only one of the principal dwelling unit or accessory apartment may be rented at any given time.
- (d) The accessory apartment shall have a net floor area not exceeding ½ of the net floor area of the principal dwelling unit and not more than 900 square feet.
- (e) The accessory apartment shall have not more than two bedrooms.
- (f) One (1) off-street parking space shall be provided for the accessory dwelling unit.
- (g) Minimum lot area shall not be less than 15,000 square feet if situated in an RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in an RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District.
- (h) The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
- (i) The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
- (j) The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.
- (k) The proposed use shall not exceed the building or site coverage for the zoning district.
- (I) If an addition is to be built for the proposed use, the addition will be set back from front, side and rear lot lines the distance required in the zoning district for new construction.
- (4) The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the Special Permit decision

(5) Transfer of Ownership

The provisions of the Special Permit may be transferred with ownership of the property provided the provisions of this section and all other provisions of the Zoning code of the Town of Harwich and the State Building Code are met and the Planning Department has approved a transfer for the Special Permit. The new owner also may request a Planning Board Certification for the accessory apartment. To obtain such certification, the owner shall submit a written request with a statement that the conditions at the time of the original Special Permit approval remain unchanged and with a certification of ownership. The Planning Board Certification shall be recorded at the Registry of Deeds.

(6) Failure to comply with these provisions or termination of occupancy by the owner shall result in the Special Permit becoming null and void, and one kitchen unit shall be removed from the property upon application to the building official at the expense of the owner.

Table 1, Use Regulations [revised]

		R	R	R	R	R	R	С	С	С	IL	MR	MR	WR
Use		R	L	M	Н	Н	Η	V	H	Η		L	L -	
					-1	-2	-3		-1	-2			1	
Para	agraph I – Residential	Uses												
1 <u>a</u>	Accessory building,	P	P	P	P	Р	P	P	P			P	P	P
	residential <u> </u>													
1 <u>b</u>	Accessory building, residential – with bedrooms	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>s</u>	<u>S</u>	S	<u>S</u>	<u></u>	 _	<u>S</u>	<u>S</u>	<u>S</u>
10	Single-family dwelling with accessory apartment (325-	S	S	S	S		wa tw	S	S			S	S	S
	51H and I)							<u> </u>						

Table 2, Area Regulations [revised]

		Minimum Required				
		Lot Area	Lot Frontage	Front	Side	Rear
District	Use	(square feet)	(contiguous feet)	(feet)	(feet)	(feet)
WR	WR Dwelling, single-family		Same as u	inderlying	g district	
	with accessory apartment	<u>40,000</u>				

SPECIAL PERMITS

<u>Underlined words</u> indicate language proposed for insertion <u>Italicized Words with Strike Through</u> indicate language proposed for deletion

<u>ARTICLE 10</u> To see if the Town will vote to amend the Code of the Town of Harwich, Chapter 325 Zoning as set forth below and to act fully thereon.

Explanation: The Planning Board recommends that the Board of Appeals continue to be the Special Permit Granting Authority for dimensional nonconformities that are normally related to residential structures. The Planning Board is now the Special Permit Granting Authority for uses allowed on a property. The proposed bylaw amendment clarifies that use special permits on properties with nonconformities also will be under the jurisdiction of the Planning Board. The proposed bylaw amendment has no impact on the Variance authority of the Board of Appeals.

Amend Chapter 325 Zoning by amending Article X, Administration and Enforcement, Section 325-51, Special permits, by striking out and substituting language as set forth below.

325-51. Special permits

The Board of Appeals shall have authority to hear and decide applications for all changes, alterations, or extensions of a nonconforming <u>residential</u> structure *or use* that require a special permit and for certification of continuance of existing dwellings under Sec. 325-51P. The Planning Board shall have authority to hear and decide all other applications for special permits.

PANHANDLE LOTS AND SHAPE NUMBERS

<u>Underlined words</u> indicate language proposed for insertion

Italicized Words with Strike Through indicate language proposed for deletion

<u>ARTICLE 11</u> To see if the Town will vote to amend the Code of the Town of Harwich, Chapter 325 Zoning as set forth below and to act fully thereon.

Explanation: Panhandle lots are currently permitted in nearby Cape Cod towns such as Brewster, Chatham, Dennis and Orleans. They allow use of rear land with limited access that would otherwise require layout of new roads for adequate access. The intent of this by-law is to allow creation of a limited number of such lots while minimizing infrastructure costs. Standards for panhandle lots include minimum width and frontage, maximum length, adequacy of driveway design, and number of adjacent panhandle lots. A related action is replacement of lot circle requirements with a maximum shape number requirement. An attached illustration provides a clearer indication of how shape numbers are calculated.

Amend Chapter 325 Zoning by adding two new definitions under Article II. Definitions and by amending and adding language to subsections A. and Q. of Section 325-18 Additional Regulations under Article VI. Area, Height and Bulk Regulations as set forth below:

ARTICLE II: Definitions

"LOT, PANHANDLE" means a lot approved by the Planning Board under the Subdivision Control Law that is designed to provide adequate access even though the lot has less than the required frontage on a public or private way. Standards for panhandle lots are provided in Section 325-18.Q.

"SHAPE NUMBER" – The numerical value resulting from division of the square of the perimeter of a lot by the area in square feet thereof.

ARTICLE VI: Area, Height and Bulk Regulations

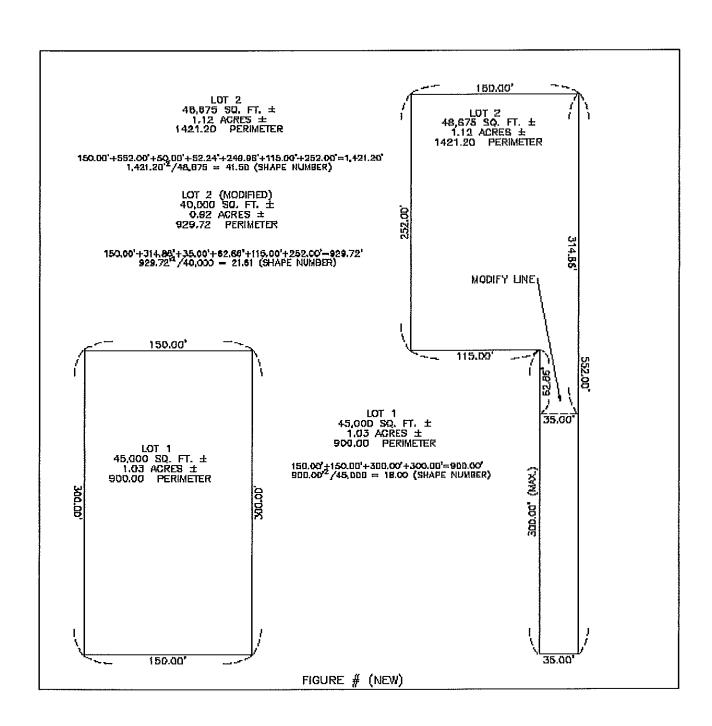
Section 325-18. Additional Regulations

A. The required minimum width of any lot hereafter laid out or created, measured along the front yard setback line, shall not be less than 80% of the required minimum lot frontage. In order to comply with the minimum square foot requirement, any lot hereafter created for building purposes must be a closed plot of land having a definite area and perimeter and having a shape number not exceeding the numerical value of 22, except that a lot may have a shape number larger than 22 provided that the site intended for building, is contained within a portion of said lot, which said portion meets the zoning requirements of the area in which it is located and has a shape number not exceeding 22. The lot shape number shall be obtained by dividing the square of the lot perimeter (P), measured in feet, by the area of the lot (A), measured in square feet (i.e.: $P^2 \div A \le 22$).

All lots hereafter created for building purposes shall be shaped so that they can contain either one circle of a diameter not less than the frontage requirement of the zoning district within

which the lot is located or two circles tangent to each other, each of a diameter of not less than 70% of the frontage requirement of the zoning district within which the lot is located. In either case, one circle must be tangent to the lot frontage. The diameter of circles in cluster subdivision lots may be as small as the minimum allowable frontage for cluster lots.

- Q. Panhandle lots may be approved by the Planning Board under the Subdivision Control Law provided that the following conditions are met:
 - (1) Lot frontage and lot width within the panhandle portion shall be a minimum of 35 feet.
 - (2) The length of the panhandle portion of a lot shall be a maximum of 300 feet.
 - (3) Suitable access by a driveway to such lot is provided within the panhandle and, in the opinion of the Board, the access is wide enough and otherwise satisfactory for a driveway.
 - (4) All panhandle lots shall meet the shape number requirements of Section 325-18.A.
 - (5) No panhandle portion of any lot may be contiguous to another panhandle portion of a lot at the street line.



NOTICE OF PUBLIC HEARING TOWN OF HARWICH BOARD OF SELECTMEN APPLICATION FOR LIQUOR LICENSE CHANGE OF LOCATION AND TRANSFER OF LICENSE

Notice is hereby given under Chapter 138 of the General Laws as amended that application has been made to this Board for a change of location and transfer of the Annual, Package Store, All Alcoholic Beverages License now held by William R. Coffin and Sons, Inc. d/b/a Plum's Package Store, 326 Route 28, Harwich Port, John W. Coffin, Manager, to Packaging Center, Inc. d/b/a Stop & Shop Supermarket, 111 Route 137, Harwich, Steven F. MacLean, Manager, on the following described premises: In whole of said building with the only display areas shaded on the submitted floor plan. With front and rear entrances and exits, rear entrance and exit for receiving merchandise, and storage in rear and upstairs.

The Board of Selectmen will hold a hearing upon the application on Monday, March 18, 2013 no earlier than 7:00 p.m. in the Donn B. Griffin Room at Town Hall, 732 Main Street, Harwich, at which time all interested parties will be heard.

Board of Selectmen Local Licensing Authority

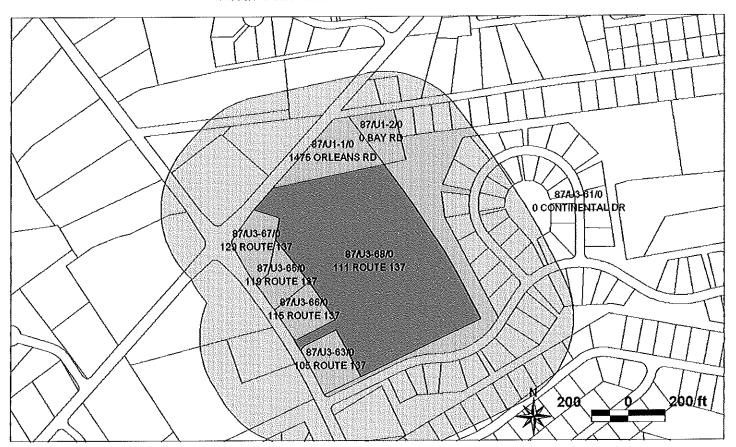
Cape Cod Times March 4, 2013

Cape Cod Chronicle March 7, 2013



TOWN OF HARWICH, MA BOARD OF ASSESSORS 732 Main Street, Harwich, MA 02645

Abutters List Within 500 feet of Parcel 87/U3-68/0



Key	Parcel ID	Owner	Location	(Mailing Street	Mailing City	ST	ZipCd/Country
6845	87-U1-1-0-R	S & S BUSINESS CORP	1475 ORLEANS RD	1385 HANCOCK ST	QUINCY	MA	02169
6846	87-U1-2-0-R	S & S BUSINESS CORP	0 BAY RD	1385 HANCOCK ST	QUINCY	MA	02169
10004	87-U3-61-0-R	PLEASANT BAY HOMEOWNERS	0 CONTINENTAL DR	P O BOX 804	HARWICH	MA	02645
17485	87-U3-68-0-R	WJG REALTY TRUST LOCUS	111 ROUTE 137	C/O STOP & SHOP SUPERMARKET CO 1385 HANCOCK ST REAL ESTATE TX	QUINCY	МА	02169
17486	87-U3-66-0-R	WJG REALTY TRUST	115 ROUTE 137	C/O STOP & SHOP SUPERMARKET CO 1385 HANCOCK ST REAL ESTATE TX	QUINCY	MA	02169
17487	87-U3-65-0-R	WJG REALTY TRUST	119 ROUTE 137	C/O STOP & SHOP SUPERMARKET CO 1385 HANCOCK ST REAL ESTATE TX	QUINCY	МА	02169
17488	87-U3-63-0-R	COY DARLENE D MS TR FIREFLY REALTY TRUST	105 ROUTE 137	41 TAYLOR LN	CHATHAM	MA	02633
17489	87-U3-67-0-R	CAPE COD FIVE CENTS SAVINGS BA	129 ROUTE 137	PO BOX 10	ORLEANS	MA	02653

TOWN OF HARWICH BOARD OF SELECTMEN

In re:)
)
Application of Packaging Center, Inc. d/b/a Super Stop & Shop)
For Transfer of an All-Alcoholic Beverages License)
)

PRE-HEARING MEMORANDUM OF APPLICANT PACKAGING CENTER, INC

I. Introduction

Packaging Center, Inc. d/b/a Super Stop & Shop ("Stop & Shop") has filed an application (the "Application") with the Town of Harwich Board of Selectmen (the "Board") for approval of the transfer of an all-alcoholic beverages liquor license (the "License") from William R. Coffin & Sons, Inc. d/b/a Plum's Package Store for exercise at the Stop & Shop location at 111 Route 137 in the Town of Harwich.

Stop & Shop's Application is scheduled for a hearing before the full Board on Monday, March 18, 2013. Stop & Shop files this Memorandum in support of its Application.

II. Discussion

The Board must review the Application with the understanding that liquor licenses are granted "to serve the public need and in such a manner as to protect the common good and . . . to provide, in the opinion of the licensing authorities, an adequate number of places at which the public may obtain [alcoholic beverages]." MGL ch. 138, § 23. The Massachusetts Appeals Court has set forth a number of factors that licensing boards must consider upon reviewing the Application. See Ballarin, Inc. v. Licensing Bd. of Boston, 730 N.E.2d 904, 908–09 (Mass. App.

Ct. 2000). Most importantly, the Board must assess the public want and determine the appropriateness of a license at the location. *Id.* at 908. In doing so, the Board may take into account factors such as the reputation of the applicant, traffic, noise and size of operation, the sort of operation that carries the license, the number of existing licenses in the locality, and the views of the inhabitants of the locality. *Id.* at 908–09. All of these factors favor transferring the License to Stop & Shop.

A. <u>Stop & Shop Will Employ Unprecedented Security Measures to Prevent Theft and Sales</u> of Alcoholic Beverages to Minors

Stop & Shop will roll out formidable security procedures to prevent theft and the sale of alcoholic beverages to minors if the Application to transfer the License is approved. It should be noted at the outset that Stop & Shop has an outstanding reputation with respect to alcoholic beverages sales. Stop & Shop has zero underage sales violations in Massachusetts in over twenty years of selling alcoholic beverages in Massachusetts. It is clear that Stop & Shop takes serious its mission to prevent minors from accessing alcoholic beverages.

To supplement its unblemished record, Stop & Shop will employ enhanced protections at the Harwich store to prevent sales to minors. Upon ringing up an alcoholic beverage, a cashier will be required to use an ID scanner to check the validity of the identification regardless of the apparent age of the customer. To proceed with the transaction, the cashier must then manually input the date of birth of the customer into the register. Additionally, cashiers will be TIPS trained and all cashiers are required to read and sign Stop & Shop's Alcohol Sales Policy.

Stop & Shop is also extremely committed to prevent and deter theft of alcoholic beverages. If the transfer Application is approved, Stop & Shop will hire a Uniformed Store Detective to patrol the sales floor and deter theft. Additionally, Stop & Shop will increase its

camera coverage by adding Pan/Tilt/Zoom Cameras to monitor the exterior areas. These security measures will supplement Stop & Shop's already existing loss prevention measures, which include camera coverage throughout the entire store and store detectives. Stop & Shop will lock out access to alcoholic beverages during non-sale hours via a security gate and will not cross-merchandize alcoholic beverages in any other areas of this store.

Stop & Shop store management and loss prevention experts have met with Harwich Police Chief William Mason and will continue to work closely with the Police Chief to ensure that alcoholic beverages are sold safely and kept out of the hands of minors. For further details regarding Stop & Shop's proposed security measures, see the Harwich Procedures and Security materials affixed as Appendix A.

B. There is a Public Need for a License in the Locality

There is a strong need for a license in the Stop & Shop location because there is only one Harwich liquor license serving the entirety of a major commercial center. The purpose of the liquor license statute in Massachusetts is to serve the public need by supplying an adequate number of places from which the public can obtain alcoholic beverages. MGL ch. 138, § 23. The law "affords no protection for licensees against competition but provides only for the service of the public in a way to protect the common good" Great Atl. & Pac. Tea Co., Inc. v. Bd. of License Comm'rs, 432 N.E.2d 530, 532 (Mass. App. Ct. 1982) (emphasis added), rev'd on other grounds 444 N.E.2d 364 (Mass. 1983). In fact, competition between licensees should be encouraged by the Board because fair competition results in better prices and service for the residents of Harwich.

The Board must consider the public need of Harwich when reviewing the Application because ultimately the Town of Harwich is the relevant locality. *See Ballarin*, 730 N.E.2d at 908.

As seen on the map of alcoholic beverages retailers in Harwich affixed as Exhibit B, there is only one Harwich alcoholic beverages retailer located within a radius of approximately 2.5 miles from Stop & Shop. This stands in contrast to the multitude of alcoholic beverages retailers located in close proximity to one another along Route 28, with many retailers located less than one mile from one another. The transfer will move an alcoholic beverages license from a concentrated area of the town along Route 28 to East Harwich, an area experiencing the greatest population growth in Harwich and with much less saturation of package stores. Since the number of existing retailers in a locality is a factor that the Board must consider, transferring the License to Stop & Shop's location is clearly favored by the standards set forth in the *Ballarin* case.

Finally, the residents of Harwich have demonstrated their support for transfer of the License to Stop & Shop. Over *two thousand* Harwich residents signed a petition voicing their support for the transfer. Many of the residents of Harwich are frequent Stop & Shop customers and understand the convenience and quality that Stop & Shop will provide with this License.

III. Conclusion

For these reasons, Packaging Center, Inc. d/b/a Super Stop & Shop respectfully requests that the Board of Selectmen, upon all of the evidence provided at the hearing, grant the Application for Transfer of the License from William R. Coffin & Sons, Inc. to Packaging Center, Inc.

PACKAGING CENTER, INC

By its attorney,

William D. Crowell, Esq.

466 Main Street, P.O. Box 185

Harwich Port, MA 02646-1604

Dated: March 14, 2013

4

A

Harwich - Procedures and Security

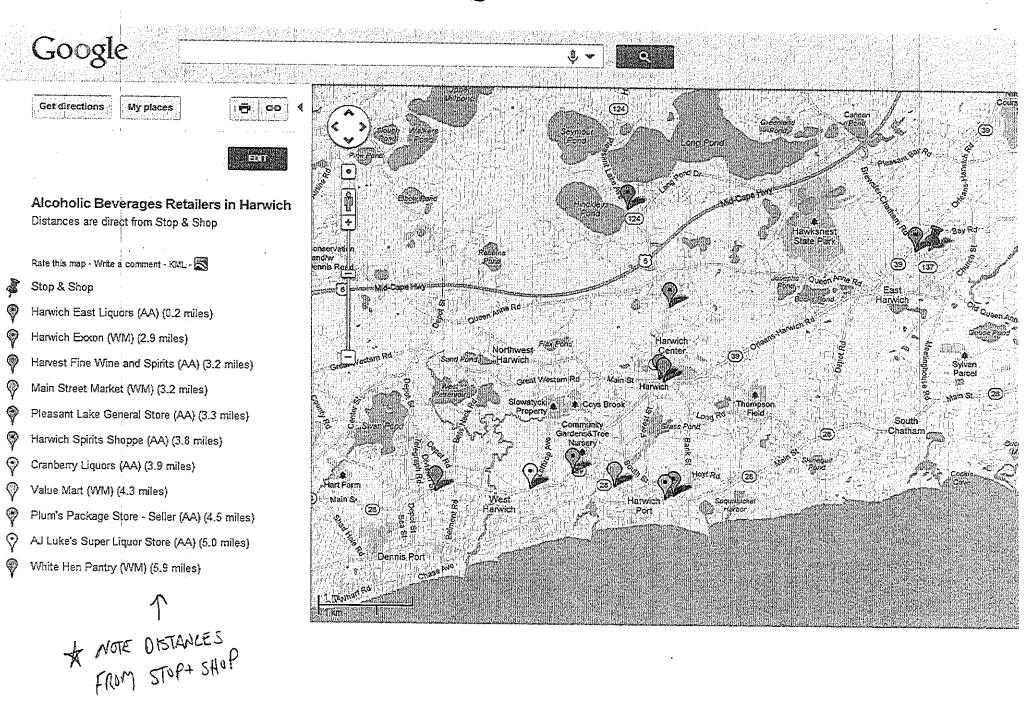
- 1. Stop & Shop rates better on underage violations as compared to package stores
 - a. No violations in Massachusetts sales to minors, stings or expired licenses.
 - All 3 locations are high sales volume stores Malden 1993 Full Liquor (highest customer count), Quincy 1996 – Beer & Wine (#1 volume in the company) and Hingham 1998 – Full Liquor (nearest package store has been closed for sales to a minor)
 - c. We want to work closely with the Harwich Police Dept on any issues.

2. Sales Protocol of Alcoholic Beverages

- a. Cashiers must be 18 years old to sell alcohol. The register will not allow cashiers under 18 to check out alcoholic beverages. A manager will come over and scan the alcoholic beverages for the underage cashier. The cash register has a series of prompts for checking ID's.
- b. The cashier must ask each customer for identification; scan such identification into the ID Scan, and then key in the customer's date of birth to continue the sale.
- c. Forms of ID that are acceptable
 - Driver's licenses from all 50 states (out of state allowed at this location)
 - Government issued ID's State ID's, Motorcycle Permits, CDL's,
 - Military Identification Card
 - Liquor purchase identification cards
 - Valid Passport
- d. ID scanners will be purchased to read identification (\$25,000)
- 3. Alcohol Sales training of cashiers
 - a. Stop & Shop will employ a TIPS Certified Trainer to train the staff at the store
 - b. Cashiers will also sign an Alcohol Sales Policy form to certify that they are aware of the regulations regarding the sale of alcoholic beverages.
- 4. Stop & Shop has a more comprehensive asset protection program than the typical stand-alone package stores:
 - a. Cameras throughout the department and in the upstairs storage area.
 - b. Training
 - c. Lock-outs for check-out during times when alcohol cannot be sold
 - d. Aisles will be locked and secured during non-sale hours by a security gate.
 - e. Store has a comprehensive security plan (see attachment)
 - f. Hire a Liquor Department Manager and part time staff to oversee the department
 - g. Product mix will NOT include: Nips, Pints, ½ Pints, Kegs of Beer
 - h. Store detectives will monitor the department and storage area via the cameras throughout the department.

- i. Asset Protection to add Exterior PTZ Cameras (Pan,Tilt,Zoom) to monitor the parking lot area. Asset Protection Managers Carlo Naimey & Rich Abraham to meet with Sgt. Robert Brackett to review camera layout.
- j. Uniformed Stop & Shop Store Detective positioned on sales floor during peek hours to monitor the Liquor Department/ Self Scan area to act as a theft deterrent.

5. Alcoholic beverages will only be merchandised in the designated department area.





The Commonwealth of Massachusetts Alcoholic Beverages Control Commission 239 Causeway Street Boston, MA 02114 www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION MONETARY TRANSMITTAL FORM

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

REVENUE CODE:	RETA		
CHECK PAYABLE TO	ABCC OR COMMONWEALTH OF MA	A: \$200.00	
(CHECK MUST DENOTE THE	NAME OF THE LICENSEE CORPORATION, LLC, PA	ARTNERSHIP, OR INDIVIDUAL)	
CHECK NUMBER			
IF USED EPAY, CONF	IRMATION NUMBER:		
A.B.C.C. LICENSE NU	MBER (IF AN EXISTING LICENSEE, CAN BE OB	TAINED FROM THE CITY):	050600025
LICENSEE NAME:	Packaging Center, Inc.		
ADDRESS:	111 Route 137		
CITY/TOWN:	Harwich STATE	ZIP CODE	02645
TRANSACTION TYPE (Ple	ase check all relevant transactions):		
New License	New Officer/Director	Pledge of License	Change Corporate Name
Transfer of License	Change of Location	Pledge of Stock	Seasonal to Annual
Change of Manager	Alteration of Licensed Premises	☐ Transfer of Stock	☐ Change of License Type
Cordials/Liqueurs Permit	New Stockholder	Issuance of Stock	Other
6-Day to 7-Day License	Management/Operating Agreemen	t Wine & Malt to All Alc	ohol

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL FORM ALONG WITH THE CHECK, COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

ALCOHOLIC BEVERAGES CONTROL COMMISSION P. O. BOX 3396
BOSTON, MA 02241-3396

The Commonwealth of Massachusetts **Alcoholic Beverages Control Commission** 239 Causeway Street Boston, MA 02114 www.mass.gov/abcc

	PETITION FOR I	RANSFER OF OWNERSHIP			
050600025			Harwich		
ABCC License Number	, OBJA PL	LAM'S PACKAGE STORE	City/Town		
-	and Sons, Inc. nsing Authorities to appro	and the proposed transferee Packaging Ce we the following transfer of ownership. Istered under the laws of the Commonwealth o			
	s, please list the officers, o	lirectors and stockholders, their residences, and	I shares owned by each.		
Name	Title	Address	Stock or % Owned		
Robert B. Coffin	President	91 Pleasant Road, West Harwich, MA 02671	19 SHL		
John W. Coffin Treasurer		18 Red Pine Drive, Harwich, MA 02645	18 81		
James L. Coffin	James L. Coffin Secretary 9 Hillcrest Drive, Harwich, MA 02645		18 SH		
LAWADICE W. COFFIN		II BAILEY SHORE RD E. HAMPSTEAD, NJ	H= 19 SH		
		0385	T=74 SHARES		
	S, please list the officers, o	registered under the laws of the Commonweal tirectors and stockholders, their residences, and //LLC Manager.)			
Name	Title	Address	Stock or % Owned		
*Thomas A. Hippler	President, Treasurer	3 Bramble Lane, Sharon MA 02067	0		
Steven F. Rowell	Secretary	2 Sedgewood, Plymouth MA 02360	0		
Michael J. Sawyer Assistant Secretary		195 Rolling Meadow Drive, Holliston MA 01746	0		
The Stop & Shop Supermarket Stockholder		1385 Hancock Street, Quincy MA 02169	100%		
Company, LLC					
The above named proposed tr	ansferee hereby Joins in this	petition for transfer of said license.			
SIGNATURE OF LAST-APPRO	(If a Corpo	yatton/LLC, by its authorized representative) Date F. Rowell, Secretary	Signed 2/12/203		

The Commonwealth of Massachusetts Alcoholic Beverages Control Commission 239 Causeway Street Boston, MA 02114 www.mass.gov/abcc

PETITION FOR CHANGE OF LICENSE

050600025		Harwich
ABCC License Number		City/Town
The licensee Packaging Center, Inc. following transactions: Change of Manager Pledge of License/Stock Change of Corporate Name/DBA Change of License Type (§12 ONL)	☐ Alteration of Premises ☐ Cordial & Liqueurs ☐ Change of Location	censing Authorities to approve the
□ Change of Manager	Last-Approved Manager:	
	Requested New Manager: Steven F. Maclean	
Pledge of License /Stock	Payment Term: Lender:	st Rate:
☐ Change of Corporate Name/DBA	Last-Approved Corporate Name/DBA: Requested New Corporate Name/DBA:	
☐ Change of License Type	Last-Approved License Type: Requested New License Type:	
Alteration of Premises: (must fill on Description of Alteration:	ut attached financial information form)	
☐ Change of Location: (must fill out		2
	Requested New Location: 326 Route 28, Harwich F	
Signature of Licensee Tis Corpor Signature of Licensee	Dation/LC, by its authorized representatively F. ROWE II	ate Signed 2/14/13

Application for Retail Alcoholic Beverage License

Harwich

City/Town

1. Licensee Information: Legal Name/Entity of Applicant: (e.g Corporation, LLC, Individual) Packaging Center, Inc. Business Name (if different): Stop + Shop Supermance + 415 Manager of Record: Steven F. MacLean 050600025 ABBC License Number (for existing licenses only): 02645 CITY/TOWN: STATE MA Harwich Address of Licensed Premises: 111 Route 137 508-432-5000 Cell Phone: **Business Phone:** Email: WCROWELL, OFFICE DEVERIZON, PET Website: www.stopandshop.com 2. Transaction: Issuance of Stock Transfer of Stock ☐ New License Management/Operating Agreement **▼** Transfer of License The following transactions must be processed as new licenses: Wine & Malt to All Alcohol 6-Day to 7-Day License Seasonal to Annual IMPORTANT ATTACHMENTS: The applicant must attach a vote of the entity authorizing all requested transactions, including the appointment of a Manager of Record or principal representative. 3. Type of License: §12 Veterans Club ∏ §12 Club §12 Restaurant §12 Hotel **■ §12 General On-Premise** §12 Tavern (No Sundays) 4. License Catagory: Wine & Malt Beverages Only ☐ Wine or Malt Only Wine & Malt Beverages with Cordials/Liqueurs Permit 5. License Class: ☐ Seasonal

6. Contact Person con	ncerning this applicatio	on (attori	ney if applical	ole)		
NAME:	William D. Crowell, Esq.					
ADDRESS:	466 Main Street, P.O. Box 185					
CITY/TOWN:	HarwichfoKT		STATE MA		ZIP CODE	02646
CONTACT PHONE NUM	BER: 508-432-1643	,,,,,	FAX NUMBI	R:	508-430-0631	
EMAIL: wcrowell.office	e2@verizon.net					
	at the second se	DAY T				
7. Description of Prem						
Please provide a complete and exits.	e description of the premises	s to be licer	nsed. The descrip	tion sh	ould include th	e location of all entrances
						,
In whole of said bu	uilding with the only displa ts, rear entrance and exit f	y areas sl	naded on the su	ubmitte	ed floor plan. \	With front and rear
entrances and extr	is, real chiralice and exits	101 1000141	ng moronana.o.	o, and	otorago in roa	. and apotano.
IMPORTANT ATTACHMENT:	S: The applicant must attach a floor	r plan with dir	nensions and square	footage	for each floor & roo	om,
Occupancy Number:			Seating Cap			
occupancy (vanishing)						
8. Occupancy of Premi	ises:					
· ·	pplicant have possession and					
IMPORTANT ATTACHMENTS: legal right to occupy the premis	The applicant must submit a copy o es.	of the final lea	se or documents evic	iencing a	Other:	
Landlord is a(n): Pleas	se Select	Other	AA22			
Name				P	hone:	
Address:		City/Tow	ո։	****	State	Zip
Initial Lease Term: Begir	nning Date		Ending (Date		
Renewal Term:		Options/E	extensions at		Years Ea	ach
Rent:	per year	Rent:			per month	
Do the terms of the lease Yes No 🗵	or other arrangement requir	re paymen	ts to the Landlord	d based	l on a percentaç	ge of the alcohol sales?
Each Individual with an o	ENTS: If yes, the Landlord is a wnership interest in the Land d to this application. Entity factors	dlord must	be disclosed in S	ilu and	i must submit a	completed <u>Personal</u>

9. Licensee Structure:	- APRIL		
The Applicant is a(n):	Corporation	Other:	
If the applicant is a Corpo	oration or LLC, complete the	following:	
State of Incorporation/Org	anization: Massachusetts	Date of Incorporation	n/Organization: 5/11/1984
Is the Corporation public	ly traded?Yes ☐ No ⊠		
10. Interests in this Lice	ense:		
List all individuals involvany person or entity with based on alcohol sales).	ved in the entity (e.g. corpora a direct or indirect, beneficia	te stockholders, directors, officeral or financial interest in this licen	s and LLC members and managers) an use (e.g. landlord with a percentage ren
IMPORTANT ATTACHM	ENTS: All individuals or entitie	es listed below are required to compl	ete a Personal Information Form.
Name	Title	Stock or % Owned	Other Beneficial Interest
Thomas A. Hippler	President, Treas., Director	0	
Steven F. Rowell	Secretary	0	
Michael J. Sawyer	Assistant Secretary	0	
The Stop and Shop	Stockholder	100%	
Supermarket Company, Ll	.c		
*If additional space is nee	ded, please use last page.		
11. Existing Interests in			
Does any individual listed beverages? Yes ⊠ No [in §10 have any direct or indire If yes, list said interes	ct, beneficial or financial interest in t below:	any other license to sell alcoholic
Name	License Type	Licensee	Name & Address
Packaging Center, Inc.	§15 Package Store	Packaging Center, Inc., 65 Newpo	ort Avenue, Quincy MA 02171
	§15 Package Store	Packaging Center, Inc., 400 Linco	ln Plaza, Hingham MA 02043
	§15 Package Store	Packaging Center, Inc., 99 Charle	s Street, Malden, MA 02148
	Please Select		
	Please Select]	
	Please Select]	
	Please Select		
*If additional space is nec	eded, please use last page.		

	terests in Other Licenses:				
Has any individual listed i financial interest in a licer	n §10 who has a direct or indirect be use to sell alcoholic beverages, which	eneficial interest in this license eve h is not presently held? Yes 🔀 N	r held a direct or in o	direct, beneficial or aid interest below:	
Name	Licensee Na	nme & Address	Date	Reason Terminated	
	Please see attached Schedule			Please Select	
				Please Select	
				Please Select	
	se Disciplinary Action: I licenses to sell alcoholic beverages t said interest below:	s listed in §11 and/or §12 ever bee	n suspended, revol	sed or cancelled?	
Date License		Reason of Suspension,	Revocation or Cand	rellation	
14. Criminal Record:					
	n §10 or who has a direct or Indirect rime? Yes □ No ⊠	t beneficial interest in this license o	ever been convicte	d of a municipal,	
	vide an affidavit as to any and all charges	as well as the disposition.			
15 Cisi-ovehin and Page	dency Requirements for a (§15) P	Package Store License ONLY:			
1. Are all Directors/LLC M		Yes	⊠No □		
2. Are a majority of Direct	ors/LLC Managers Massachusetts R	esidents? Yes	Yes ⊠ No □		
3. Is the License Manager	or Principal Representative a U.S. Ci	itizen? Yes	⊠ No □		
4. Are all members and p	partners involved at least twenty-on	e years old? Yes	⊠ No □		
	dency Requirements for (§12) Re	staurant, Hotel, Club, General O	n Premise, Tavern	, Veterans Club	
License ONLY: 1. Are all Directors/LLC Managers U.S. Citizens? Yes No No					
2. Are a majority of Direct	ors/LLC Managers Massachusetts R	esidents? Yes	Yes 🔲 No 🗍		
3. Is the License Manager	or Principal Representative a U.S. C	ltizen? Yes	□ No □		

17. Costs Associated with License Tran	nsaction:	
A. Purchase Price for Real Property:		
B. Purchase Price for Business Assets:		
C. Costs of Renovations/Construction:	\$300,000.00	
D. Initial Start-Up Costs:		IMPORTANT ATTACHMENTS: Submit any and all records, documents and affidavits including loan
E. Purchase Price for Inventory:		agreements that explain the source(s) of money for this transaction. Sources of cash should include a minimum
F. Other: (Specify)	\$175,000.00	of three (3) months of bank statements.
G: TOTAL COST	\$475,000.00	
H. TOTAL CASH	\$475,000.00	
I. TOTAL AMOUNT FINANCED		The amounts listed in subsections (H) and (I) must total the amount reflected in (G).
18. Provide a detailed explanation of the	form(s) and source(s) of fu	ding for the costs identified in §17 (include loans,
mortgages, lines of credit, notes, personal f	unds, gifts):	
Internal cash flow		
*If additional space is needed, please use I	ast page.	
19. List each lender and loan amount(s) t	from which "total amount fin	anced" noted in subsections 17(I) will derive:
Name	Dollar Amour	t Type of Financing
	and Market Market	
*If additional space is needed, please use l	ast page.	
l		direct or indirect, beneficial or financial interest in this
license or any other license(s) granted under	er Chapter 138? Yes No	
If yes, please describe:	. —	

If all the information is not completed the application may be returned

APPLICANT'S STATEMENT

SCHEDULE A

Packaging Center, Inc. formerly held a package store license for its supermarket in Watertown which was voluntarily surrendered so that the Licensee could acquire a package store license in Quincy, Massachusetts.

The Stop & Shop Company formerly held package store licenses for its stores in Newton, Rockland, and Kingston Massachusetts, which were voluntarily surrendered so that The Stop & Shop Supermarket Company could obtain licenses in other Massachusetts communities.

P.S. Liquors, Inc., an affiliate of Packaging Center, Inc. by virtue of Stop & Shop's purchase of the Purity Supreme chain of supermarkets, formerly held package store licenses at supermarkets in Walpole and Fitchburg, Massachusetts, both of which were voluntarily surrendered to allow Packaging Center, Inc. to obtain or continue to hold licenses in other Massachusetts communities.

PACKAGING CENTER, INC.

CONSENT OF SOLE DIRECTOR IN LIEU OF SPECIAL MEETING

February 11, 2013

The undersigned, being the sole director of Packaging Center, Inc. (the "Corporation"), hereby consents, pursuant to Massachusetts Law, to the adoption of the following votes, effective as of the date set forth above:

- RESOLVED: That the Corporation apply to the Town of Harwich for a Transfer of an All Alcoholic Beverages Package Store License for use at 111 Route 137 (a/k/a 111 Chatham Road), Harwich, Massachusetts 02645 (the "License"); and
- RESOLVED: To authorize Thomas A. Hippler, Steven F. Rowell, or Michael J. Sawyer to sign the application for the License in the name of the Corporation, and to execute on its behalf any necessary papers, and to do all things required relative to the granting of the License; and
- RESOLVED: To appoint Steven F. Maclean, of Mashpee, Massachusetts, as manager or principal representative of the Corporation, with respect to control of the Premises described in the License of the Corporation and of the conduct of all business therein relative to alcoholic beverages as the licensee itself could in any way have and exercise if it were a natural person resident in the Commonwealth of Massachusetts, and that a copy of this vote duly certified by the Secretary of the Corporation and delivered to said manager or principal representative shall constitute the written authority required by Sec. 26, Chap. 138, G.L.; and
- RESOLVED: That any and all actions heretofore taken in furtherance of the transactions contemplated hereby including, without limitation, the execution, delivery and/or performance of any agreements, documents, certificates, amendments, supplements, modifications or instruments, by any of the officers, directors, employees or representatives of the Corporation, be and hereby are, ratified, approved and confirmed, said actions having the same force and effect as if they were taken with the prior written approval of all directors of the Corporation.

Signed under the pains and penalties of perjury and under seal as a sealed instrument.

DIRECTOR:

Thomas A. Hippler

LB



Trading Statement

Fourth quarter and Full year 2012

Amsterdam, the Netherlands -- Ahold today announced consolidated net sales of €7.8 billion for the fourth quarter of 2012, an increase of 7.5% compared to the fourth quarter of 2011. At constant exchange rates net sales were up 5.1%.

For the full year 2012, consolidated net sales were €32.8 billion, an increase of 8.5% compared to 2011. At constant exchange rates net sales were up 3.5%.

In the United States sales were up 4.3%. Our strong performance was partly driven by the exceptional efforts of our teams during Hurricane Sandy, which enabled our stores to remain open and to serve our customers during these difficult times. The positive sales impact of Sandy was partly offset by a negative calendar impact due to the timing of year end. We continued to gain market share in all our divisions. The 15 Genuardi's stores we acquired in 2012 performed in line with expectations. Furthermore we opened another four pick-up points, bringing the total to eight in the United States.

The sales growth of 7.7% in the Netherlands was mainly driven by progress on our growth initiatives, including the addition of 15 former C1000/Jumbo stores that were converted during the second half of the year. Identical sales growth was impacted this quarter by the timing of year end and a disappointing performance from Etos in a very competitive health and beauty segment. Albert Heijn was able to further increase its market share. We opened our first three pick-up points for online grocery shopping in the Netherlands, and their initial performance is exceeding our expectations. We continue to be pleased with the performance of our Belgian stores. We opened three Albert Heijn supermarkets during the quarter, bringing our total number of Belgian stores to eleven. Bol.com showed a strong sales performance and continued to strengthen its position in the Netherlands.

In an ongoing tough environment in Other Europe, the VAT increase earlier this year continued to impact net sales. We continued to drive sales ahead of the competition and gained market share.



Sales performance

Ahold USA

Fourth quarter

- Net sales of \$6.1 billion increased by 4.3% when compared to the fourth quarter of 2011.
- Identical sales increased 2.4% (1.4% excluding gasoline).
- · Comparable sales were up 2.8%.

Full year

- Net sales of \$25.8 billion increased by 3.1% over 2011.
- Identical sales increased 1.4% (0.5% excluding gasoline).
- Comparable sales were up 1.9%.

The Netherlands

Fourth quarter

- Net sales of €2.7 billion increased by 7.7% when compared to the fourth quarter of 2011.
- · Identical sales increased 0.2%.

Full year

- Net sales of €11.1 billion increased by 5.2% over 2011.
- · Identical sales increased 1.0%.

Other Europe (Czech Republic and Slovakia)

Fourth quarter

- Net sales of €404 million decreased by 2.2% (3.0% at constant exchange rates) when compared to the fourth quarter of 2011.
- Identical sales decreased 3.3% (2.5% excluding gasoline).

Full year

- Net sales of €1.7 billion decreased by 3.7% (1.8% at constant exchange rates) over 2011.
- Identical sales decreased 2.3% (2.2% excluding gasoline).

Unconsolidated joint ventures (ICA and JMR)

Fourth quarter

 The combined net sales of Ahold's unconsolidated joint ventures (ICA and JMR) increased 4.2% to €3.7 billion. At constant exchange rates, net sales increased 0.6%.

Full year

 Combined net sales increased 5.0% to €14.4 billion. At constant exchange rates, net sales increased 2.2%.



Net sales by segment

	Q4	04	%	FY 2012	FY 2011	% change
€ million	2012	2011	change	2012]		urange
Ahold USA	4,733	4,371	8.3%	20,112	18,026	11.6%
The Netherlands	2,698	2,506	7.7%	11,054	10,506	5.2%
Other Europe	404	413	(2.2)%	1,675	1,739	(3.7)%
Ahold Europe	3,102	2,919	6.3%	12,729	12,245	4.0%
Ahold Group	7,835	7,290	7.5%	32,841	30,271	8.5%
Unconsolidated joint ventures	3,749	3,597	4.2%	14,420	13,737	5.0%
\$ million				·····		
Ahold USA	6,142	5,887	4.3%	25,845	25,072	3.1%
Average U.S. dollar exchange rate (euro per U.S. dollar)	0.7709	0.7421	3.9%	0.7782	0.7189	8.2%

Identical/comparable sales growth (% year over year)*

	Q4.2012	Q4 2012	Q4 2012	FY 2012	FY 2012	FY 2012
	identical	identical	comparable	identical	identical	comparable
		excluding			excluding	
		gasoline			gasoline	
Ahold USA	2.4%	1.4%	2.8%	1.4%	0.5%	1.9%
The Netherlands	0.2%	0.2%		1.0%	1.0%	
Other Europe	(3.3)%	(2.5)%		(2.3)%	(2.2)%	

^{*} Comparable sales are only reported for Ahold USA.



Notes

The net sales figures presented in this trading statement are preliminary and unaudited.

Use of non-GAAP financial measures

This trading statement includes the following non-GAAP financial measures:

- Net sales at constant exchange rates: Net sales at constant exchange rates exclude the impact
 of using different currency exchange rates to translate the financial information of Ahold
 subsidiaries or joint ventures to euros. Ahold's management believes this measure provides a
 better insight into the operating performance of Ahold's foreign subsidiaries or joint ventures.
- Net sales in local currency: In certain instances, net sales are presented in local currency.
 Ahold's management believes this measure provides a better insight into the operating performance of Ahold's foreign subsidiaries.
- Identical sales: Net sales from exactly the same stores and online sales in existing market areas, in local currency for the comparable period.
- Identical sales, excluding gasoline net sales: Because gasoline prices have experienced greater volatility than food prices, Ahold's management believes that by excluding gasoline net sales, this measure provides a better insight into the growth of its identical store sales.
- Comparable sales: Identical sales plus net sales from replacement stores in local currency.
 Comparable sales are only reported for Ahold USA.

Management believes that these non-GAAP financial measures allow for a better understanding of Ahold's operating and financial performance. These non-GAAP financial measures should be considered in addition to, but not as substitutes for, the most directly comparable IFRS measures.

2013/01

Cautionary notice

This press release includes forward-looking statements, which do not refer to historical facts but refer to expectations based on management's current views and assumptions and involve known and unknown risks and uncertainties that could cause actual results, performance or events to differ materially from those included in such statements. These forward-looking statements include, but are not limited to, statements as to the performance of Ahold stores in, amongst other markets, Belgium. These forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results to differ materially from future results expressed or implied by the forward-looking statements. Many of these risks and uncertainties relate to factors that are beyond Ahold's ability to control or estimate precisely, such as the effect of general economic or political conditions, fluctuations in exchange rates or interest rates, increases or changes in competition, Ahold's ability to implement and complete successfully its plans and strategies, the benefits from and resources generated by Ahold's plans and strategies being less than or different from those anticipated, changes in Ahold's liquidity needs, the actions of competitors and third parties and other factors discussed in Ahold's public fillings and other disclosures. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this press release. Ahold does not assume any obligation to update any public information or forward-looking statements in this press release to reflect subsequent events or circumstances, except as may be required by applicable laws. Outside the Netherlands, Koninklijke Ahold N.V., being its registered name, presents itself under the name of "Royal Ahold" or simply "Ahold".



SOM C B.AND 3 (84) 12-90 176470

G. O.

The Commonwealth of Massachusetts

OFFICE OF THE MASSACHUSETTS SECRETARY OF STATE

MICHAEL JOSEPH CONNOLLY, Secretary

ONE ASHBURTON PLACE, BOSTON, MASS. 02108

ARTICLES OF ORGANIZATION

(Under G.L. Ch. 1562) Incorporators

NAME

POST OFFICE ADDRESS

Include given name in full in case of natural persons: in case of a corporation, give state of incorporation.

JUDITH WESTLUND ROSBE

P.O. Box 369 Boston, MA 02101

The above-named incorporator(s) do hereby associate (themselves) with the intention of forming a corporation of the provisions of General Laws, Chapter 156B and hereby state(s):

1. The name by which the corporation shall be known is:

PACKAGING CENTER, INC.

2. The purpose for which the corporation is formed is as follows:

Please see Page 2A attached hereto.

84 132008

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Approved

Note If the space provided under any article or item up this form is insufficient, additions shall be set forth on separate 8.1/2 x.11 sheets of paper leaving a left hand mirgin of at least 1 inch for hinding. Additions to more than one article may be continued on a single sheet so long as each article requiring each such addition is clearly indicated.

P.C.

3. The total number of shares and the par value, if any, of each class of stock within the corporation is authorized as follows:

,			·	
· WILST BE STORY	WITHOUT PAR VALUE	WITH PAR VALUE		
	NUMBER OF SHARES	number of Shares	PAR VALUE	THUOMA
Preferred				\$
		,		
Common	15,000			,

4. If more than one class is authorized, a description of each of the different classes of stock with, if any, the preferences, voting powers, qualifications, special or relative rights or privileges as to each class thereof and any series now established:

Wot Applicable

*5. The restrictions, if any, imposed by the Articles of Organization upon the transfer of shares of stock of any class are as follows:

None

*6. Other lawful provisions, if any, for the conduct and regulation of husiness and affair, of the corporation, for its voluntary disvolution, or for limiting, defining or regulating the powers of the corporation, or of its directors or stockholders, or of any class of stockholders;

Please era Pages 2b and 20 attached herato.

"If there are no provisions state "None",

To buy or otherwise acquire, raise, grow, produce, manufacture, process, warehouse, distribute, market, prepare for market, repair, sell, dispose of, deal in or with, operate stores for the sale of, import, and/or export goods, merchandise, products, provisions, and property of every kind, and description, including without limitation, food, food products and general merchandise goods, services of every kind and description.

 $k_{i,j}$

To acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or dispose of letters patent of the United States or any foreign country, patent rights, licenses and privileges, formulae, inventions, improvements and processes, trade secrets, trade marks and trade names relating to or useful in connection with any business of the corporation; to carry on any business or other activity which may be lawfully engaged in by a business corporation organized under the Business Corporation Law of The Commonwealth of Massachusetts, whether or not related to the purposes above enumerated.

To acquire or form and to operate subsidiary corporations, business trusts or other legal business entities organized under the laws of Massachusetts or any other jurisdiction for the conduct of any lawful business whatsoever.

To exercise all the powers granted to corporations governed by the provisions of Chapter 156B of the General Laws.

The Corporation may be a partner in any business enterprise it would have power to conduct by itself and may carry on any parmissible business enterprise either alone (whether wholly or partly owned submidiary, or in conjunction, through a joint venture or other arrangement, with any corporation, association, trust, firm or individual.

Article 6A. INDEMNIFICATION

l. Except as limited by law or as provided in Paragraphs 2 and 3, each Officer of this Corporation (and his heirs and personal representatives) shall be indemnified by this Corporation against all Expense incurred by him in connection with each Proceeding in which he is involved as a result of his serving or having served as an Officer of this Corporation or, at the request of this Corporation, as a director, officer, employee or other agent of any other organization.

- 2. No indemnification shall be provided to an Officer with respect to a matter as to which it shall have been adjudicated in any proceeding that he did not act in good faith in the reasonable belief that his action was in the best interests of this Corporation.
- settled so as to impose any liability or obligation upon an Officer or upon this Corporation, no indemnification shall be provided to said Officer with respect to a matter if this Corporation has obtained an opinion of counsel that with respect to said matter said Officer did not act in good faith in the reasonable belief that his action was in the best interests of this Corporation.
- 4. To the extent authorized by the Board of Directors or the stockholders, this Corporation may pay indemnification in advance of final disposition of a Proceeding, upon receipt of an undertaking by the person indemnified to repay such indemnification if it shall be established that he is not entitled to indemnification by an adjudication under Paragraph 2 or by an opinion of counsel under Paragraph 3 hereof.
 - 5. For the purposes of this Article,
- (a) "Officer" means any person who serves or has served as a director or in any other office filled by election or appointment by the stockholders or the Board of Directors;
- (b) Proceeding means any action, suit or proceeding, civil or criminal, brought or threatened in or before any court, tribunal, administrative or legislative body or agency; and
- judgment, order, decree, or award in a Proceeding, any amount reasonably paid in settlement of a Proceeding and any professional fees and other disbursements reasonably incurred in a Proceeding.

6. Nothing in this Article shall limit any lewful rights to indemnification existing independently of this Article.

Article 6B. TRANSACTIONS WITH INTERESTED PERSONS

- 1. Unless entered into in bad faith, no contract or transaction by this Corporation shall be void, voidable or in any way affected by reason of the fact that it is with an interested Person.
- 2. For the purposes of this Article, "Interested Person" means any person or organization in any way interested in this Corporation whether as an officer, director, stockholder, employee or otherwise, and any other entity in which any such person or organization or this Corporation is in any way interested.
- 3. Unless such contract or transaction was entered into in bad faith, no Interested Person, because of such incerest, shall be liable to this Corporation or to any other person or organization for any loss or expense incurred by reason of such contract or transaction or shall be accountable for any gain or profit realized from such contract or transaction.
- 4. The provisions of this Article shall be operative notwithstanding the fact that the presence of an Interested Person was necessary to constitute a quorum at a meeting of directors or stockholders of this Corporation at which such contract or transaction was authorized or that the vote of an Interested Person was necessary for the authorization of such contract or transaction.

Article 6C. STOCKHOLDERS' MEETINGS

Meetings of Stockholders of this Corporation may be held anywhere in the United States.

Article 6D. AMENDMENT OF BY-LAWS

The By-Laws may provide that the Board of Directors as well as the stockholders may make, amend or repeal the By-Laws of this Corporation, except with respect to any provision thereof which by law, by these Articles or by the By-Laws requires action by the Stockholders.

Article 6E. ACTING AS A PARTNER

This Corporation may be a partner in any business enterprise which it would have power to conduct by itself;

- 9c. the thirty-first day of January of each year if that day be a Saturday, and otherwise on the last Saturday in January proceeding or the first Saturday in February following, as may be determined by the Board of Directors.
- 9d. the second Monday in April in each year, unless that day be a legal holiday, in which case the meeting shall be held on the next succeeding day not a legal holiday.

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- 7. By-laws of the corporation have been duly adopted and the initial directors, president, treasurer and clerk, whose names are set out below, have been duly elected.
- 8 The effective date of organization of the corporation shall be the date of filing with the Secretary of the Commonwealth of if later date is desired, specify date, (not more than 30 days after the date of filing.)
- The following information shall not for any purpose be treated as a permanent part of the Articles of Organization of the corporation.
 - a. The post office address of the initial principal office of the corporation of Massachusetts is:

2.0. Box 369

b. The name, residence, and post office address of each of the initial directors and following officers of the corporation are as follows:

NAME

RESIDENCE

POST OFFICE ADDRESS

President: Avram J. Goldborg 270 Beacon St. 5380 Boston, MA 02116 45 Ferncroft Rd. Treasuren Albert S. Frager Sage Hewton, MA Clerk: Samuel W.W. Mandell 36 Audubon Rd. 多為意思 Wellesley, MA Directors: 270 Beacon St., Boston, MA Same 270 Beacon St., Boston, MA Same 65 Grove St., Wellosley, MA Same 45 Ferncroft Rd, Bawton, MA Same Avzam J. Goldberg Carol R. Goldberg Robert J. Levin Albert S. Frager 23 Yale Rd., Needham, MA Arthur S. Robbins

- c. The date initially adopted on which the corporation's fiscal year ends is:
 That Saturday closest to January 31, each year.
 (See Page 2D)
- d. The date initially fixed in the by-laws for the annual meeting of stockholders of the corporation is:

 (See Page 2D)

 Second Monday in April
- e. The name and business address of the resident agent, if any, of the corporation is:

IN WITNESS WHEREOF and under the ponulties of porjury the INCORPORATOR(S) sign(s) these Articles of Organization this 9 m day of 1984

Judies Waskund Roder

The signature of each incorporator which is not a natural person must be an Individual who shall show the capacity in which he acts and by signing shall represent under the penalties of perjury that he is duly authorized on its behalf to sign these Articles of Organization.

LIQUOR LICENSE TRANSFER AGREEMENT

SELLER: William Coffin and Sons, Inc.

326 Main Street

Harwich Port, MA 02646

BUYER:

Packaging Center, Inc. 1385 Hancock Street

Quincy, MA 02169

SELLER'S

ATTORNEY:

BUYER'S

Howard J. Wayne, Esq.

ATTORNEY: Wayne, Richard &

Hurwitz LLP One Boston Place

Suite 3620

Boston, MA 02108

(617) 720-7870 (telephone) (617) 720-7877 (facsimile) hwayne@wrhmlaw.com

ADD'L

NOTICEES:

(if any)

ADD'L

NOTICEES:

Steven Rowell, Esq.

Senior Vice President and

Deputy General Counsel (if any)

Ahold USA, Inc. 1385_Hancock_Street_

Quincy, MA 02169

(617) 770-6977 (telephone)

Steve.rowell@aholdusa.com

Mr. Scott Forbes

Dir. Competitive Strategy New England Division 1385 Hancock Street

Quincy, MA 02169

(617) 774-4414 (telephone) sforbes@stopandshop.com

SELLER'S

Plum's Package Store

BUYER'S

The Stop & Shop

PREMISES:

326 Main Street

PREMISES: Supermarket Company LLC

111 Route 137

Harwich, MA 02646

Harwich, MA 02645

LICENSE:

All Alcoholic Beverages Off-Premises LICENSE

ABCC # # 050600025

[Copy attached hereto as EXHIBIT A]

TRANSFER CONSIDERATION:

\$ 17,500.00 Initial Deposit: Additional Deposit: \$ N/A At Closing: \$ 157,500.00

Total Consideration: \$175,000.00 (subject to Closing adjustments)

SELLER'S James A. Peterson BROKER:

Peterson Realty, Inc.

BUYER'S Nancy Whitehurst BROKER: Realty Executives

255 Route 28

15 Cape Lane

West Harwich, MA 02671 (508) 432-1220 (telephone) Brewster, MA 02631 (508) 896-3200 (telephone)

(508) 896-1550 (telecopier)

(774) 238-0017 (cell)

BROKER's

Payable by SELLER:

As agreed between SELLER and BROKER

FEE: Payable by BUYER:

As agreed between BUYER and BROKER

GUARANTY:

None intially

1. AGREEMENT TO EFFECT TRANSFER:

-Effective as of the Closing-Date (as defined herein-below), SELLER herebyagrees to cause the transfer and issuance to BUYER, and BUYER hereby agrees to pay for and accept transfer of, the LICENSE, for exercise at BUYER'S PREMISES.

- SELLER and BUYER (hereinafter, together, the "PARTIES") shall cooperate in obtaining the transfer of the LICENSE from SELLER to BUYER and from SELLER'S PREMISES to BUYER'S PREMISES. For purposes of this Agreement, the term "BUYER" shall include any person or entity nominated by BUYER to be transferee of the LICENSE from SELLER.
- As soon as practicable following execution of this Agreement by both PARTIES (and, if noted above, execution of any Guaranty in the form attached hereto by representatives of SELLER), BUYER shall prepare and file with the local licensing authorities ("LLA") a transfer application ("APPLICATION") on forms provided by the Massachusetts Alcoholic Beverages Control Commission ("ABCC") and the LLA. SELLER shall sign the transfer petition, and thereafter BUYER shall, at its own expense, pursue the transfer of the LICENSE to BUYER for exercise at the BUYER'S PREMISES; provided that, if at any point BUYER determines that pursuit of the transfer will likely be unsuccessful, unduly expensive or is otherwise proving to be impractical, BUYER may upon notice to SELLER terminate this Agreement, whereupon the Deposit shall be returned to the BUYER and SELLER shall have no further recourse.
- Notwithstanding any provision in this Agreement or any other writing to c. the contrary, BUYER shall obtain no rights to any assets of SELLER other than the LICENSE, and BUYER is not assuming any liability or obligation of SELLER,

SELLER's stockholders or members or any affiliate of SELLER (or any predecessor owner of all or part of the SELLER's business or assets), whether or not such liabilities relate to the LICENSE. The parties hereby acknowledge and agree that all such liabilities and obligations shall be retained by and remain obligations and liabilities of SELLER, and/or SELLER's stockholders or members or affiliates, as applicable. The provisions of this subsection shall survive the termination of this Agreement and/or the Closing.

d. SELLER and BUYER each agree to execute and deliver, or cause to be executed and delivered, such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in connection with the APPLICATION and in order to consummate and implement expeditiously the transactions contemplated by this Agreement and to vest in BUYER good and marketable rights in and to the LICENSE. SELLER shall cooperate with BUYER and provide BUYER with all information requested by the LLA and the ABCC in connection with the APPLICATION (or any APPEAL) and transfer of the LICENSE from SELLER to BUYER for exercise at the BUYER Premises.

2. TRANSFER CONSIDERATION:

As full consideration for the transfer of the LICENSE from SELLER to BUYER, for exercise at BUYER'S PREMISES, BUYER shall pay SELLER the total TRANSFER CONSIDERATION set forth hereinabove, payable at the times set forth hereinabove. The TRANSFER CONSIDERATION at Closing shall be payable in immediately available funds (including payment in cash, cashier's check or wire transfer).

- a. As an adjustment to the TRANSFER CONSIDERATION, BUYER shall pay SELLER the amount of any prepaid annual LICENSE fee for the LICENSE paid by SELLER prior to Closing and which benefits the BUYER.
- b. BUYER and SELLER may agree that some or all of the TRANSFER CONSIDERATION may be used at or before Closing to pay third parties on behalf of SELLER, including but not necessarily limited to alcoholic beverages wholesalers, the Massachusetts Department of Revenue and/or the Internal Revenue Service. Prior to making any such payment, BUYER may, in its discretion, require execution and delivery of the GUARANTY attached hereto by any officer, director, shareholder, member or similar appropriate individual(s) associated with SELLER. In the event that any such payments are made, an appropriate adjustment shall be made at Closing regarding the TRANSFER CONSIDERATION payable directly to SELLER. In the event that pre-Closing payments are made by BUYER to third-parties on SELLER's behalf, and this Agreement is terminated for any reason without the LICENSE being issued to BUYER (or BUYER's nominee), then SELLER and/or any GUARANTOR(S) shall promptly reimburse BUYER in the full amount of said pre-Closing payments and the Deposit shall be returned to the BUYER and SELLER shall have no further recourse.
- c. SELLER and BUYER each represent and warrant that the BROKER(S) identified above is/are the only broker they have dealt with in connection with this Agreement, and that no broker fee is payable to any other broker in connection with this

Agreement, and that they are not aware of any other broker who has claimed or may have the right to claim a fee in connection with this Agreement. SELLER and BUYER acknowledge and agree that SELLER, and not BUYER, is responsible to pay the SELLER'S BROKER FEE and that if such fee is paid by BUYER, such amount shall be deducted from the TRANSFER CONSIDERATION otherwise payable by BUYER to SELLER hereunder.

- d. Seller and BUYER shall indemnify, hold harmless and defend each other against any costs, claims, liabilities or expenses, including reasonable attorneys' fees and costs, arising out of any breach of the representations and warranties contained in this Agreement, which obligation shall survive the Closing or, if the Closing does not occur, the termination of this Agreement.
- SELLER and BUYER acknowledge and agree that the Deposit(s) shall be held in escrow by BUYER'S ATTORNEY as Escrow Agent in BUYER'S ATTORNEY's IOLTA account. At the CLOSING, the Escrow Agent shall account for the Deposit, and the Parties shall pay BROKER for professional services as provided above upon payment of the TRANSFER CONSIDERATION and issuance of the LICENSE to BUYER for exercise on BUYER'S PREMISES. In the event that the CLOSING does not occur, for any reason, all Deposits shall be returned to the BUYER upon request and this Agreement shall be void. If there is any dispute as to whom Escrow Agent is to deliver the Deposit, Escrow Agent shall continue to hold the Deposit until the parties' rights are finally determined in appropriate action or proceeding or until a court orders Escrow Agent to deposit the payment with it. If Escrow Agent does not receive proper written authorization from Seller and Buyer, or if an action or proceeding to determine Seller's and Buyer's rights is not begun or diligently prosecuted, Escrow Agent is under no obligation to bring an action or proceeding by him in Court, Escrow Agent assumes no liability except that of a stakeholder. Escrow Agent's duties are purely ministerial and are limited to those specifically set out in this Agreement, Escrow Agent shall incur no liability to anyone except for willful misconduct or gross negligence so long as Escrow Agent acts in good faith. Seller and Buyer release Escrow Agent from any act done or omitted in good faith in the performance of Escrow Agent's duties.

3. CLOSING:

The closing ("CLOSING") shall take place at the offices of BUYER'S ATTORNEY or at such other place as the parties may agree upon. The CLOSING shall take place within five (5) business days after notification from the LLA and/or the ABCC that the LICENSE transfer has been fully approved and that the LICENSE in the name of BUYER (or BUYER's nominee), for exercise at BUYER's PREMISES, is available for issuance.

- a. The following shall occur at the CLOSING:
- i. SELLER shall deliver to BUYER evidence reasonably satisfactory to BUYER confirming the payment of any and all outstanding bills owed to liquor wholesalers attributable to the LICENSE at the SELLER'S PREMISES.

- ii. BUYER shall deliver the TRANSFER CONSIDERATION to SELLER in accordance with, and adjusted pursuant to, the terms and conditions set forth herein;
- iii. SELLER shall deliver to BUYER such bills of sale, assignments and other good and sufficient instruments of conveyance and assignment as shall be reasonably necessary or appropriate to vest in BUYER all possible right, title and interest in the LICENSE under applicable law, free and clear of any claim, lien, pledge, option, charge, security interest or encumbrance of any nature whatsoever (collectively, "ENCUMBRANCES"). Specifically, SELLER shall deliver to BUYER, or cause the delivery to BUYER of, a bill of sale and general assignment to the LICENSE in the form attached hereto as Exhibit B.
- iv. SELLER shall execute and deliver all such instruments, documents and certificates as may be reasonably requested by BUYER that are necessary, appropriate or desirable for the consummation at the CLOSING of the transactions contemplated by this Agreement.
- b. If the LLA, ABCC or any other applicable agency votes to deny or otherwise does not approve the transfer application, the BUYER may at its option elect to either terminate this Agreement forthwith, whereupon the Deposit shall be returned to the BUYER and SELLER shall have no further recourse, or to file an appeal pursuant to M.G.L. ch. 138 § 67 with the ABCC ("APPEAL"). During the pendency of any such APPEAL, the period for CLOSING pursuant to Section 6.a shall be automatically extended; provided that, at any point during such APPEAL, BUYER may dismiss the APPEAL and, in that event, this AGREEMENT shall terminate without any further action by either PARTY, whereupon the Deposit shall be returned to the BUYER and SELLER shall have no further recourse.

4. REPRESENTATIONS AND WARRANTIES

- A. SELLER hereby represents and warrants to BUYER that:
- a. SELLER, having full legal capacity to do so, has duly executed and delivered this Agreement and this Agreement constitutes the legal, valid and binding obligation of SELLER, enforceable against SELLER in accordance with its terms.

- b. The execution, delivery and performance by SELLER of this Agreement does not and will not (i) contravene or conflict with the corporate charter or bylaws of SELLER, or any other agreement, instrument, judgment, decree, statute or regulation to which SELLER is subject, (ii) constitute a default under or give rise to any right of termination, cancellation or acceleration of any right or obligation of SELLER under any provision of any agreement, contract or other instrument by which the LICENSE is or may be bound, or (iii) result in the creation or imposition of any lien on the LICENSE.
- c. The LICENSE is, and immediately prior to Closing will be, a current and validly issued All Alcoholic Beverages Off-Premises LICENSE free from all ENCUMBRANCES.
- d. There is no action, suit, investigation or proceeding (or any basis therefor) pending against or threatened against SELLER or affecting the LICENSE before any court or arbitrator or any governmental body, agency or official that in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated hereby or would, if determined or resolved adversely, otherwise materially diminish BUYER's use and enjoyment of the LICENSE.
- e. SELLER is not in violation of, has not violated, and to the best of SELLER's actual knowledge, is not under investigation with respect to, and has not been threatened to be charged with or given notice of any violation of, any law, rule, ordinance or regulation, or judgment, order or decree entered by any court, arbitrator or governmental authority, domestic or foreign, applicable to the LICENSE.
- f. It is expressly understood and agreed that SELLER and any GUARANTOR shall be liable for, and shall indemnify, defend and hold harmless BUYER and its affiliates and their respective partners, members, managers, directors, officers, employees and agents from and against, any and all obligations, claims, losses, damages, liabilities and expenses arising out of events, contractual obligations, acts, or omissions of SELLER or SELLER's affiliates, in connection with SELLER's rights to the LICENSE arising or accruing prior to the Closing Date. The provisions of this subparagraph shall survive the CLOSING or the earlier termination of this Agreement.
 - B. BUYER hereby represents and warrants to SELLER that:
- a. BUYER, having full legal capacity to do so, has duly executed and delivered this Agreement and this Agreement constitutes the legal, valid and binding obligation of BUYER, enforceable against BUYER in accordance with its terms.

b. The execution, delivery and performance by BUYER of this Agreement does not and will not contravene or conflict with the organizational documents applicable to BUYER or any other agreement, instrument, judgment, decree, statute or regulation to which BUYER is subject.

5. COVENANTS

- a. From the date hereof until the Closing or earlier termination of this Agreement, whichever comes first, SELLER will not (i) further mortgage, pledge, sell, offer to sell, sublicense or offer to sublicense, transfer or offer to transfer, the LICENSE; (ii) take, or agree in writing or otherwise to take, any action that would subject the LICENSE to any ENCUMBRANCES or make any of the representations or warranties of SELLER contained in this Agreement untrue or incorrect or would result in any of the conditions set forth in this Agreement not being satisfied, or (iii) agree, whether in writing or otherwise, to do any of the foregoing.
- b. SELLER and BUYER shall cooperate with one another (a) in determining whether any action by or in respect of, or filing with, any governmental body, agency, official or authority is required, or any actions, consents, approvals or waivers are required to be obtained from parties to any material contracts, in connection with the consummation of the transactions contemplated by this Agreement, and (b) in taking such actions or making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers.
- c. The PARTIES agree to consult and obtain the other's prior written consent before issuing any press release or making any public statement with respect to this Agreement or the transactions contemplated hereby, except as may be required by applicable law, and will not issue any such press release or make any such public statement prior to such consultation and consent. Except for any such statements, and the filing of this Agreement as part of the transfer application, the PARTIES shall keep the existence and terms of this Agreement strictly confidential.

6. CONDITIONS TO CLOSING

The PARTIES' obligation to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions on or before the CLOSING date:

a. Approval for the transfer of the LICENSE to BUYER for exercise at the BUYER'S PREMISES shall have been obtained, on or before three (3) months after execution of this Agreement. Should such approval not be timely obtained, BUYER may, at BUYER's discretion, extend the time for obtaining approval for one (1) successive period of ninety (90) days each, or at any point therein or after terminate this Agreement by notice given to SELLER, , whereupon the Deposit shall be returned to the BUYER and SELLER shall have no further recourse. BUYER's option to extend shall

be conditioned upon BUYER's continuing to pursue the transfer application in good faith.

- b. On and as of the CLOSING date, the representations and warranties of SELLER set forth herein shall be true and correct in all material respects with the same force and effect as though such representations and warranties had been made on and as of such CLOSING Date; and on the CLOSING Date SELLER shall upon request execute and deliver a certificate to such effect.
- c. On and as of the CLOSING Date, the representations and warranties of BUYER set forth herein shall be true and correct in all material respects with the same force and effect as though such representations and warranties had been made on and as of such CLOSING Date; and on the CLOSING Date BUYER shall upon request execute and deliver a certificate to such effect.

7. MISCELLANEOUS

- a. Each party will be liable for its own costs and expenses incurred in connection with the negotiation, preparation, execution and performance of this Agreement.
- b. All amendments or waivers of any provisions of this Agreement may be made only-pursuant to a written instrument executed by the PARTIES or their successors and assigns.
- c. All covenants and agreements in this Agreement contained by or on behalf of either of the PARTIES shall bind and inure to the benefit of the respective successors and assigns of SELLER and BUYER.
- d. This Agreement is being delivered and is intended to be performed in the Commonwealth of Massachusetts, and shall be construed and enforced in accordance with, and the rights of the PARTIES shall be governed by, the laws of the Commonwealth of Massachusetts.
- e. The descriptive headings of the several paragraphs of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.
- f. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.
- g. This Agreement constitutes the entire agreement between the PARTIES with respect to the subject matter hereof and supersedes all prior agreements, understandings and negotiations, both written and oral, between the PARTIES with respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein has been made or relied upon by

either party hereto. Neither this Agreement, nor any provision hereof, is intended to confer upon any person other than the PARTIES hereto any rights or remedies hereunder.

· h. All notices, demands or other communications given under this Agreement shall be in writing, and shall be delivered by hand or telecopy, mailed postage prepaid, certified or registered mail, return receipt requested, or via national overnight delivery service to the addresses of the PARTIES set forth above, with copies to their listed attorneys and representatives.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement as of the date first above written.

PACKAGING CENTER, INC.

WILLIAM COFFIN AND SONS, INC.

President

EXHIBIT A

THE LICENSE

[copy to be attached hereto]

EXHIBIT B

FORM OF BILL OF SALE AND GENERAL ASSIGNMENT

BILL OF SALE AND GENERAL ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS, this day of
2013, that William Coffin and Sons, Inc. ("SELLER"), in consideration of
One Hundred Seventy-Five Thousand Dollars (\$175,000.00) paid by Packaging Center,
Inc., a duly organized Massachusetts corporation with a usual place of business at 111
Route 137, Harwich, Massachusetts ("BUYER"), the receipt and sufficiency of which are
hereby acknowledged, does hereby transfer, convey, sell, assign and deliver to BUYER, and
its successors and assigns, all of SELLER's right, title and interest in and to the LICENSE (as
such term is defined in that certain Liquor License Transfer Agreement dated
, 2013, by and between BUYER and SELLER and incorporated herein by reference (the
"Agreement")). The LICENSE is an All Alcoholic Beverages Package Store LICENSE,
previously covering premises at 326 Main Street, Harwich Port, Massachusetts (the
"SELLER'S PREMISES"), and now covering premises at 111 Route 137, Harwich,
Massachusetts.

SELLER hereby represents and warrants to BUYER that this Bill of Sale is sufficient to transfer and convey all possible right, title, and interest in the LICENSE to BUYER under applicable law, free and clear of any claim, lien, pledge, option, charge, security interest, or encumbrance of any nature whatsoever (collectively "Encumbrances"). Without limiting the generality of the foregoing, SELLER hereby represents and warrants to BUYER that:

- 1. There are no outstanding bills owed to liquor wholesalers attributable to the LICENSE;
- 2. There are no outstanding UCC filings affecting the LICENSE on record;
- 3. There are no existing or pending bankruptcy proceedings affecting the LICENSE or SELLER;
- 4. There are no existing assignments, sublicenses or other agreements regarding the LICENSE which provide or may provide for its use or management by anyone other than BUYER from and after the date hereof;
- 5. There are no outstanding taxes affecting the LICENSE, including but not limited to meals, alcohol, federal, state, and local taxes; and
- 6. There are no outstanding taxes owed by SELLER to any federal, state, or local governmental authority.

TO HAVE AND TO HOLD, all and singular, the aforesaid LICENSE and all appurtenances thereto unto BUYER and its successors and assigns for its and their own use forever.

AND, FURTHER, SELLER hereby covenants, represents, warrants and agrees that, at the request of BUYER, and without further consideration, SELLER will, to the extent required from time to time from and after the date hereof, execute and deliver such further reasonable instruments of transfer and assignment and take such further action as BUYER may reasonably request to evidence or consummate the sale contemplated hereby and to vest in BUYER all possible title to the LICENSE free and clear of all Encumbrances.

This Bill of Sale and General Assignment shall be binding upon SELLER and its successors and assigns.

This Bill of Sale and General Assignment shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without giving effect to the conflicts of law principles thereof, except that if it is necessary in any other jurisdiction to have the law of such other jurisdiction govern this Bill of Sale and General Assignment in order for this Bill of Sale and General Assignment to be effective in any respect, then the laws of such other jurisdiction shall govern this Bill of Sale and General Assignment to such extent.

Assignment, as of theday of	LLER has executed this Bill of Sale and General, 2013.
WITNESS:	WILLIAM COFFIN AND SONS, INC.
JAMES PETERSON	By: Dat B. Coffin PRW. Robert B. Coffin President



MEMO

To:

Board of Selectmen, Local Licensing Authority

From:

Ann Steidel, Administrative Secretary

cc:

Jim Merriam, Town Administrator

Date:

May 3, 2012

Subject:

Liquor License Applications

Please be aware that we are reminded by William Counsel, General Counsel at the Alcoholic Beverages Control Commission that the standard the Appeals Court applies to determining who should be granted a liquor license comes from the case of Ballarin Inc. v. Licensing Board of Boston (2000) which set forth the following 7 factors to be considered:

- 1. The number of existing dispensaries in a locality
- 2. Views of the inhabitants of the locality in which the license is sought
- 3. Traffic
- 4. Noise
- 5. Size
- 6. The sort of operation that carries the license
- 7. The reputation of the applicant

If a liquor license application is denied, the Board must identify which of these factors they applied in making their decision in a report to the ABCC. The applicant is given an opportunity to appeal to the ABCC.





KOPELMAN AND PAIGE, P.C.

The Leader in Municipal Law

101 Arch Street Boston, MA 02110 T: 617.556.0007 F: 617.654.1735 www.k-plaw.com

February 25, 2013

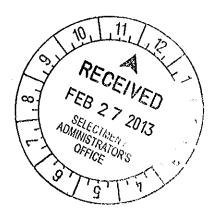
Brian W. Riley briley@k-plaw.com

BY FACSIMILE - (508)432-5039

Mr. James Merriam Town Administrator Harwich Town Hall 732 Main Street Harwich, MA 02645

Re: Proposed "Sale" of Alcoholic Beverages License

Dear Mr. Merriam:



You have requested an opinion regarding whether a business or individual that wishes to acquire a license to sell alcohol may purchase one from a current license holder. According to the information provided, Stop & Shop was recently before the Board of Selectmen on a hearing on an application to transfer a §15 off-premises license from another licensee, and it came up that Stop & Shop was paying the licensee a sum of money to acquire the license. Some attendees objected that this was unlawful, and you have requested an opinion on this issue. You further informed me that Stop & Shop now has a pending application for a different license transfer, so the same issue may be involved.

In my opinion, if a prospective transferee of an alcoholic beverages license makes a payment to the current holder, this is <u>not</u> unlawful and both the ABCC and the courts have determined that such a sale is outside the constraints of General Laws Chapter 138. Many alcoholic beverage licensing authorities view the "sale" of a license with disapproval, as favoring a large business over a smaller one that cannot afford to make such a payment. In addition, G.L. c.138, §23 states that "No holder of such [an alcoholic beverages] license or permit hereunder shall have any property right in any document or paper evidencing the granting of such license or permit and issued by the licensing authorities," suggesting that a license holder has no "property" of which to sell.

Whether or not such a payment is made between the two private parties, however, is outside of the licensing authority's jurisdiction under G.L. c.138 and would not, in itself, constitute grounds to deny a transfer (the issue of licenses being sold obviously only arises when a city or town has not issued its quota of licenses, as the new business would apply for one of the unused licenses). The ABCC has long held this view of the issue, finding no inconsistency with Chapter 138 if a licensee "sells" the license to a proposed transferee. In addition, in a 1988 decision, the Massachusetts Appeal Court commented on a decision of the ABCC, which had ordered a Board of Selectmen to reinstate a license for a reasonable length of time for the license holder to "sell the license," but the Court did not state any objection to that aspect of the ABCC's decision. Finally, I note that it is fairly commonplace for a licensed business with financial troubles to file for bankruptcy or have its

KOPELMAN AND PAIGE, P.C.

Mr. James Merriam Town Administrator February 25, 2013 Page 2

assets seized by the Department or Revenue for tax debts, and when this happens, the Trustee in Bankruptcy or DOR conducts an auction of the license to raise funds. Based on the above, it is my opinion that there is no legal prohibition against the sale of an alcoholic beverages license and the issue is not properly a subject before the Board of Selectmen – i.e., if a transfer was denied for this reason alone, I would not expect it to be upheld by the ABCC on appeal.

Notwithstanding the above, I would emphasize that even if a proposed transferee is paying a license holder as part of a requested transfer, that fact is irrelevant to the consideration of the Board of Selectmen and the ABCC as to whether the transferee is a satisfactory party to hold the license. Just as with any applicant, the Board should consider the appropriateness of the location, the nature of the business, whether a valid Manager will be onsite, and the like before approving the transfer, and a party that purchased a license from the license holder or by auction enjoys no presumption that the Board or the ABCC will be approving it as a new license holder.

If you have further questions in this regard, please feel free to contact me.

Very truly yours,

Brian W. Riley

BWR/bp 468326/HARW/9999

License to complain

September 29, 2012 - 2:05-AM-

CAPE COD TIMES EDITORIAL

While we were glad Stop-&-Shop decided to withdraw its application for a liquor license in East Harwich, the process revealed the selective tolerance of the free market system, especially when a new business may have an adverse effect on those already enjoying that same system.

At issue was a request by Stop & Shop to purchase a liquor license from a business in Harwich and transfer it to its store in East Harwich. Selectmen considered the matter at last week's public hearing, which attracted a standing-room-only crowd of more than 100 people, far in excess of the usual turnout for such meetings.

But this transfer hearing was anything but ordinary. Representatives and supporters of several local liquor stores showed up in force to protest the proposed transfer. Many of those opposed to the move also sounded their disapproval when selectmen voted to allow Stop & Shop representatives to withdraw their application without prejudice, allowing them the option of having the request heard again.

It is certainly well within the rights of owners and patrons of surrounding stores to register their concerns about such a transfer. There is, after all, little question that a major food retailer-with-the-capacity-to sell-alcohol-would-have-a-substantial-impact on area package stores.

But to throw out the canard, as some did, that the suggested transfer is somehow a matter of public health and wellbeing seems a bit disingenuous, especially coming from people who peddle the same products.

1

Some of those in attendance suggested that a supermarket selling alcohol would likely result in an increase in people driving under the influence and the sale of alcohol to minors. We are all well aware that alcohol fuels unsavory behavior, including domestic violence. Fatal motor vehicle accidents can be traced back to alcohol.

Obviously, alcohol can and has had a terrible impact on the lives of many people. Alcoholism is a devastating disease for those who suffer from it, as well as the friends and family who love them. Similarly, drunk driving and the other ancillary destruction related to excessive alcohol consumption has left terrible marks on countless lives.

But to connect a liquor license request by one store to a spread of such suffering is more than hyperbolic; it is fear mongering. If the owners of existing liquor stores truly believed their products had such uncontrolled capacity for devastation, would it not be incumbent upon them to close shop and seek a new line of business rather than simply arguing that the market is already over saturated?

The fact is that at its root, the free market system is based on competition; offer a better service, product, or price, and you will have an edge over your competition. Fail to keep up with other businesses and you will soon find yourself without customers. It really is that simple

Owners of the plethora of package stores in the area might want to spend more time examining how to maintain and enhance their competitive advantages and less time trying to obstruct the very free enterprise system that once allowed them to become someone else's unwelcome competition.

Harwich Police Department

Memorandum

TO:

Board of Selectmen

James R. Merriam

Town Administrator

FROM:

Bill Mason

Chief of Police

DATE:

March 4, 2013

SUBJECT:

Application for a Transfer of License and Change of Location for

RECEIVED

MAR 0 5 2013

SELECTMEN / ADMINISTRATOR'S OFFICE

Packing Center Inc. (Stop & Shop)

The Police Department has no objections regarding the Application for a Transfer of License and Change of Location for Packing Center Inc. (Stop & Shop). A background investigation of the applicants indicates no liquor code violations or disqualifying history of negative contacts.

If you have any questions or need further clarification, please feel free to contact me at your earliest convenience.

The West Chatham Association, Inc.

P O Box 291

West Chatham, MA 02669-0291

www.westchathamassociation.com

March 6, 2013 Harwich Board of Selectmen Town Hall 732 Main Street Harwich, MA 02645

Re: Protesting Liquor License for Stop & Shop

Dear Board Members:

I am writing to you on behalf of the Board of Directors of the West Chatham Association, Inc, about our concern for plans to grant Stop & Shop in East Harwich a liquor license. Several family-owned and operated liquor stores in Chatham have expressed their dismay over this proposal and the unfair competitive impact it will have on small businesses in our area. It is clearly obvious the Stop & Shop's enormous buying power will put small liquor stores at a distinct disadvantage because Stop & Shop will be able to buy wholesale in bulk amounts and sell at discounted prices. Eventually our neighbors who own small businesses will not be able to continue, and the consumer will be the loser.

With all due respect to Stop & Shop and in consideration of (1) the seasonal nature of businesses on Cape Cod; and 2) the new law passed by the Legislature in November 2011 which increased the cap on licenses per corporation, why can't this multi-national organization apply for a liquor license in a town with a more stable population? Liquor stores on the Cape are dependent on seasonal sales and the granting of the requested license would be a disaster for not only Harwich stores but for neighboring communities as well.

The recession has been tough for small business owners. Now there is this threat of a huge conglomerate draining business away. Competition is good, but this seems extremely unfair and could have dangerous impacts on public safety, security, and the community.

Sincerely,

David E. Burns, M.D.

President, West Chatham Association, Inc.

To the Board of Selectman of the Town of Harwich:

Bully as defined by Wickepedia:

Noun

1. A person who uses strength or power to harm or intimidate those who are weaker.

Verb

Use superior strength or influence to intimidate (someone), typically to force him or her to do what one wants.

Well Stop & Shop is at it again. Trying to force the selectman of Harwich to allow them to locate that super Liquor store that was clearly not wanted by the citizens of Harwich a few months ago, again in their East Harwich location. I attended that meeting and thought the citizens of Harwich were emphatic that there was no public need for this and they clearly did not support it or want it. How many times do we have to say NO? Do you care about this town as much as I do and in fact most of it's citizens? Let this big box store have it's way by bullying you and the public and you are opening the door and windows to let more and more big box stores find their way into the town. Take a stand and say NO once and for all. It is so difficult for the small business owners of this community, no matter what their product is to survive. But for the 15 independently owned liquor stores within a five mile radius, it would be devastating. They don't have the

means to compete with a big corporate, foreign owned, company like Stop & Shop. Hyannis, did not allow BJ's to sell Liquor for what I presume was the same reason. Concern for the local independent business owners was the issue and I applaud them. This is not going to benefit the community and only hurt the small independent store owners. I ask is it worth it? I know it would be easier to say yes and then the issue goes away for you, but aren't you here to serve and support the needs and best interests of the community and it's citizens? Then I implore you to say NO again to this application. Stop & Shop heard the people speak, and decided to back down at the last meeting, only to figure out another way they could bully us into accepting it. I for one, will stop shopping at that store, just out of principal, if it gets voted in. I am sure many others feel the same. If S & S does not get this license it will not impact them one bit but if they do, there are probably many small local independent businesses that will have to close and seek another means of providing a substantial income for themselves and their families. Keep that in mind and in your conscience. You don't have to allow them this permit, just because they have figured out another way of trying to slip it by. NOT FAIR AND UNWANTED.

SIGNED:

Elaine Felos Ostrander

concerned citizen of Harwich.





Wednesday March 6, 2013

Dear Chairwoman Cebula and the Harwich Board of Selectmen:

We are writing to you once again to voice our concerns over the transfer of the year round all alcohol license this time from Plum's Package Store to the Stop & Shop Supermarket on Rt. 39 and Rt. 137. While it is our intention to come to the hearing being held on this issue, we wanted to make sure that if that did not happen, our concerns were voiced.

We believe that this would cause irreparable harm to the community and to local off premise liquor license holders who are already meeting the needs of the community. We also have a concern that it may negatively impact our own local business. Based on our further review, the following thirty (30) stores with off premise licenses are located within a six (6) mile radius of the Stop & Shop location. Highlighted stores are in Harwich Underline indicates selling Cape Cod Beer

- Harwich East Liquors; 0.2 miles W
 1421 Orleans Road; East Harwich, MA
- Chatham's Llquor Locker; 2.6 miles SE 1221 Main Street; Chatham, MA
- 3. Shop Ahoy Llquors; 2.2 miles SE 1589 Main Street; West Chatham, MA
- 4. <u>Chatham Liquor Store</u>, Inc.; 3.2 miles SE 756 Main Street; Chatham, MA
- 5. South Chatham Liquors; 1.8 miles S 2447 Main Street; South Chatham, MA
- Cranberry Liquors; 3.9 miles SW 555 Main Street; Harwich Port, MA
- Orleans Wine & Spirits; 5.1 miles N 9 W Road; Orleans, MA
- Luke's Super Liquor Store; 5.8 miles NW
 Lower Road; Brewster, MA
- Harwich Spirits Shoppe; 3.8 miles SW 574 Massachusetts 28; Harwich Port, MA
- Brewster Wine: 4.6 miles NW
 2655 Main Street; Brewster, MA
- Friend's Marketplace; 5.6 miles N
 Main Street; Orleans, MA
- 12. Windmill Liquor & Fine Wines; 6.3 miles N 28 Route 6A; Orleans, MA
- Luke's Super Liquor Store; 5.0 miles SW 224 Massachusetts 28; Harwich, MA
- Winslow's Spirits & Things; 4.7 miles N 3643 Main Street; Brewster, MA
- Fuller's Package Store, Inc.;
 5.3 miles N
 180 Route 6A; Orleans, MA

- Luke's Super Liquor Store; 6.4 miles SW 444 Main Street; Dennis Port, MA
- Milistone Liquors at 137; 2.9 miles NW 1185 Long Pond Road; Brewster, MA
- 18. Main Street Market; 2.9 miles NW 715 Main Street; Harwich, MA
- Chatham Light Liquors; 3.0 miles E 314 Orleans Road; North Chatham, MA
- Harvest Fine Wines & Spirits; 3.2 miles SW 706 Main Street; Harwich, MA
- Brewster Village Market Place; 4.9 miles NW 1760 Main Street; Brewster, MA
- 22. Plum's Package Store; 4.6 miles SW 326 Massachusetts 28; Harwich Port, MA
- Value Mart; 4.3 miles SW
 435 Massachusetts 28; Harwich Port, MA
- 24. <u>Chatham Village Market</u>; 3.2 miles SE Massachusetts 28; Chatham, MA
- Harwich Mobil: 3.5 miles SE
 173 Pleasant Lake Avenue; Harwich, MA
- 26. Pleasant Lake General Store; 3.9 miles SW 403 Pleasant Lake Avenue; Harwich, MA
- 27. <u>Brewster Farms</u>; 6.0 miles N 2771 Main Street; Brewster, MA
- Main Street Wine & Gourmet; 6.3 miles N
 Massachusetts 137; Harwich, MA
- Ferretti's Market; 4.3 miles NW
 Underpass Road; Brewster, MA
- Nauset Fish Market; 6.3 miles N 38 Route 6A; Orleans, MA

The sale of alcohol at the Harwich Stop & Shop location will clearly impact each and every one of these locations, as people from Harwich, Chatham, Brewster and Orleans shop at this store. While most Cape Codders <u>want</u> to support their local stores, we all know too well that convenience most often outweighs good intentions, and good intentions don't pay the bills. While Plums' Package Store held this license they may have acted as an evenly weighted competitor in an already tight market. The size of Plums' is most certainly not equal to the competition that will be created if the only local supermarket starts selling alcohol. While some competition as a general rule is good thing, these stores, given their current density, already understand competition well - they live it 362 days a year!

As citizens we are certainly concerned about safety. We take the public safety issue of over indulgence and driving under the influence very seriously. The selling of alcohol is a very serious business. It requires specific procedures to be followed and in many cases mature judgment. The package store owners who attended the last meeting talked about patrolling their parking lots. This will be very difficult for a large grocery store to do. Will this increase the risk of people buying alcohol for minors? Increase the pressure for an 18 year old cashier to help their friends attain alcohol illegally? None of this is good for our community. Given that grocery stores also tend to be the most likely employer of teenagers, will this license transfer also impact our local teens being able to find their first jobs? Another concern we heard of at the previous hearing and had not considered was the issue brought to light by one gentleman, who objected on behalf of those who suffer from alcohol addiction. You can always choose not to go into a liquor store, but those people who struggle with addiction might find alcohol at their local grocery store too much to resist. All of these impact our community.

We also urge you to consider the financial impact of this decision to our community. Money spent with local independent shops stays in our local community at a far higher rate than money spent at large corporate entities from afar. Those same locally owned stores combined also sponsor more sports teams, donate more products to local charity events and give more back to our local community than a large corporate entity does. Yes, indeed Stop & Shop is a large supporter of our community – and that should be celebrated, but how much is enough? While we hold nothing against Stop & Shop – and admittedly shop there weekly, don't they get enough money out of our local economy?

Most importantly we are concerned because we KNOW that voters voted AGAINST alcohol in grocery stores a few years back, and clearly it is not the will of the people for this to happen, but that politics and lobbying has once again trumped the voter's decision.

Please Vote No on the transfer of this license, and help keep our local economy in the hands of small independent retailers!

Thank you very much for your time and attention,

Cheers

Todd Marcus President & Brewmaster Cape Cod Beer Inc. Elizabeth Marcus Business Manager Cape Cod Beer Inc.

PHONE: 508-790-4200 WWW.CAPECODBEER.COM

TO: Harwich Board of Selectmen

We regret we are unable to attend this second hearing of the Board regarding the transfer of a liquor license to Stop and Shop. Please accept this letter as our expression of strong opposition to the transfer.

As was evident by the 100+ attendees at last September's Board hearing, the majority of town residents clearly oppose the sale of liquor at Stop and Shop. Multiple concerns were expressed in September, including those of Police Chief William Mason and Fire Chief Norman Clarke, for the security and community impact that this transfer would likely create. Stop and Shop admitted that they would allow the check out of alcohol at all of their registers, many of which are manned by minors especially during the high volume summer months. This creates a significant potential for increased illegal sale of alcohol to minors as "friends check out friends" at registers. Such under age drinking is likely to result in an increase in accidents, including fatalies.

With the significant number of independent liquor stores within a 15 mile radius of Stop and Shop, the argument for convenience doesn't hold up. As regular customers of both Stop and Shop and the Harwich East Liquor stores, we do not consider it an inconvenience to make a quick stop at across the street for wine. We would, however, consider it a huge inconvenience to be held up at each Stop and Shop check out register while the clerk has to "card" every customer who looks under the age of 40 who is purchasing alcohol.

Please do the right thing and deny the transfer of a liquor license to Stop and Shop.

Jyn Olson Brod Olson

Lynn and Brad Olson

58 Doane Road

Harwichport

Cc: John Kenny, Harwich East Liquors

March 12, 2013

Harwich Board of Selectmen

I am writing to <u>support</u> the location of a beer, wine and liquor store at Stop & Shop in East Harwich.

As long it is a separate part of the building and follows all regulations it would be a major convenience.

Competition is healthy and if the local liquor stores have to compete then they should clean up their stores and offer better selection and prices.

Barry Knowles

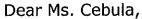
1006 Route 28; POBox 243

South Harwich, MA 02661



Linda A. Cebula, Chair Harwich Board of Selectmen 732 Main Street Harwich, Ma 02645

RE: Stop & Shop request to sell alcohol



It has come to our attention that the Stop & Shop in East Harwich is, again, attempting to become a seller of alcohol. We are unable to attend next Monday's hearing and would like this letter to suffice as how we feel about this possible occurrence. We are emphatically <u>against</u> alcohol being sold in our supermarket.

There are many liquor stores (about 20, I believe) within a radius of 5 or 6 miles of the store, convenience is certainly not an issue. It is easy enough to drive across the street or down the road a bit. Most, if not all, of the small liquor stores are family businesses, struggling to make a living within our community, we need to be supportive of them as they give back to the towns where they and their families live year round. The Stop & Shop in East Harwich is Ahold's largest MA income producer in the summer, they do not need to sell alcohol. We do not believe S&S can possibly control sales to minors or shoplifting by minors the way the smaller stores do.

Several months ago when this came before you the first time, you did nothing, many of us were frustrated with the "meeting". Please listen to those who vote for you and expect you to ignore any outside pressures there may be. Thank you.

Sincerely

Sally J, Hayes

29 Live Oak Drive Harwich 02645

Carl N. Haves

March 10, 2018/9

Harwich Board of Selectmen 732 Main Street Harwich, MA 02645

Subject:: Transfer of Annual Liquor Licenses from other entities

to Super Stop and Shop on Route 137.



I wrote a letter in September of 2012 in support of your denial of said transfer as mentioned above which at that time was going to come from the Pleasant Lake liquor store. I will repeat---there are a number of solid reasons to deny this transfer and I recommend that you once again deny the request.

First, you should know that my wife and I moved to Brewster in 2002 to retire and have lived on Scarborough Road since then. I have found it very convenient to shop for groceries at the Stop and Shop, and then stop at John Kenny's Harwich Liquors to pick up sodas and wine or liquor.

John represents a classic small business in this area and he and his staff provide excellent service—and that is the key difference between what he provides and what Stop and Shop would provide. They should concentrate their shelving space on food.

I also suggest that we do not need another liquor supply location—there are enough—we do not need it. And to insert a huge store like Stop and Shop into the market will hurt those small businesses. Like Walmart, these huge operations do not thrive on service—they lower the price to drive competition out of the market. They also are not beholding to local citizens like John or his customers like me—Stop and Shop is owned by a huge congolmerate out of Holland called Ahold. They will not pay attention to me like John will and does. In addition, these huge stores are not good for the suppliers as well.

In the area of monitoring, I also suggest that stores like John's will do a much better job of checking folks to make sure that they can legally purchase alcohol. The self-checkout lanes at Stop and Shop are certainly ripe for abuse. A person under the influence is more likely to try Stop and Shop to purchase additional liquor whereas John and his folks would immediately put a stop to such a sale.

Grocery stores in California and Florida are allowed to sell liquor, and I can attest to the fact that the service is at best--- poor. My wife and I were in Florida this past February on vacation and at the Publix store in Naples, there is wine sold, but there are no service people and no assistance to speak of.

I request that you come down on the side of denying such a transfer of a liquor license such as is contemplated and support our local businesses which are the lifeblood of the Cape.



Thank you for your time and consideration.

Sincerely yours;

Donald L. Schober 86 Scarborough Road Brewster, MA 02631

508-896-9980

e-mail: kitdon@comcast.net

H. GLENN ALBERICH, ESQ.

Of Counsel, Sarrouf Law, LLP 64 West Pasture Lane Tisbury, Massachusetts 02568

Tel: 508-696-4666 Fax: 508-696-4665

March 14, 2013



Via Hand Delivery

Linda Cebula, Chairperson Harwich Board of Selectmen Town of Harwich 732 Main Street Harwich, MA 02645

Re: Super Stop & Shop Application For License Transfer

Dear Ms. Cebula:

I am once again writing on behalf of John Kenney, Jon Alger and John & Jon United Corporation, the corporate owner of the package store operating as Harwich East Liquors (collectively, "Harwich East") located at 1421 Route 39 in Harwich. The Board will no doubt recall that only six months ago this same applicant, Packaging Center, Inc. d/b/a Super Stop & Shop ("Stop & Shop") applied for an all alcoholic beverage license at this same location, and then withdrew its application at the end of a long hearing before the Board. Harwich East again respectfully requests that Stop & Shop's application for a change of location and transfer of an all alcohol beverage license to the Stop & Shop location at 111 Route 137 (Chatham Road) be denied on the basis that the transfer and change of location: (1) will not serve the public need; (2) will in fact be harmful to the public welfare; and (3) is opposed by the citizens living in the locality in which the license is sought.

A. The Public Need

In addressing the "public need," the relevant statue, M.G.L. c. 138 §23 states that such need is to be determined:

... in such a manner as to <u>protect the common good</u> and, to that end, to provide, in the opinion of the licensing authorities, an <u>adequate number of places</u> at which the public may obtain... the different sorts of beverages... (emphasis added).

In considering the "public need," it is proper to take into account the "number of existing dispensaries in a locality." <u>Ballarin, Inc. v. Licensing Board of Boston</u>, 49 Mass.App. Ct. 506,511 (2000), citing <u>Victoria, Inc. v. Alcoholic Beverages Control Commission</u>, 33 Mass.App.Ct. 507,514 (1992).

The proper consideration of the number of existing package stores was underscored in Great Atlantic & Pacific Tea Co., Inc. v. Board of License Commissions of Springfield, 387 Mass. 833 (1983). In that case the Springfield licensing authority denied the transfer and relocation of an off premise package store license on the basis that the locality was currently served by "an adequate number of" package stores. Great Atlantic & Pacific Tea Co., Inc., at p. 836. The plaintiff, A & P, appealed the decision to the Superior Court which affirmed the commissioners' decision. Great Atlantic & Pacific Tea C., Inc., at p. 836. The main argument raised by A & P on further appeal was that the license at issue was being transferred from a store that had ceased to do business, and that store was only 600 feet from the location of the A & P store which sought the license. The Appeals Court reversed the Superior Court decision, relying on the fact that the transfer would not "result in any increase in the number of outstanding off premise licenses in the area." Great Atlantic & Pacific Tea Co., Inc., at p. 838. However, the Supreme Judicial Court reversed the Appeals Court decision and affirmed the decision of the commissioners, stating:

It was not erroneous for the commissioners to conclude that a transfer of that dormant license to the A & P would not be in the public interest because there was an adequate number of establishments in the area ...

Great Atlantic & Pacific Tea Co., Inc., at p. 839. Therefore it is appropriate for a licensing authority to deny the transfer and relocation of a license even where the relocation would not increase the number of existing licensed establishments, under circumstances where the authority determines that there are already sufficient stores in the locality.

In the present case, Stop & Shop seeks to relocate the license of a currently operating store that is approximately 5 miles from the Stop & Shop location. Further, Stop & Shop seeks to move the license to a locality that has more than ample stores to serve the local public. There are currently 7 package stores located within 3 miles of the Stop & Shop site, and they range from Harwich East, directly across the street, to 1.8 miles, 2.2 miles, 2.6 miles, 2.9 miles (2 stores) and 3 miles. Further, there are an additional 7 package stores that are under 4 miles from Stop & Shop and another 8 package stores that are within 5 miles of Stop & Shop. Therefore, there are 14 stores within 4 miles and 22 stores within 5 miles of Stop & Shop. The Massachusetts Appeals Court has already ruled that a local board's denial of a license on the basis that the existing 4 stores within 3 miles constituted an adequate number of alcoholic beverage outlets was a proper finding that could not be overturned. In so ruling the Court stated: "We defer in this determination, as we must, to the local authority's judgment based on the evidence before it." Town of Middleton v. Alcoholic Beverages Control Commission, 64 Mass. App. Ct. 1108 (2005). Under these circumstances there is no "public need" for yet another license in the locality. Great Atlantic & Pacific Tea Co., Inc., at p. 839; see also Tiger Inc. v. Hargadon, et al., 8 Mass.L.Rptr. 307 (1998).

B. <u>Deference Given To Local Board Decisions</u>

For more than 30 years Massachusetts Courts have consistently recognized that local licensing boards possess specialized knowledge and expertise with regard to the problems affecting alcoholic beverages regulations. Consequently, as a matter of law, the issue of a transfer of a liquor license location "is a matter entrusted to the sound discretion of the local licensing authorities, within the statutory standards. "Great Atlantic & Pacific Tea Co., Inc., at p. 837; Victoria, Inc., at p. 512.

A local licensing board's decision will not be reversed unless it is based upon an error of law, or the board took arbitrary or capricious action. Great Atlantic & Pacific Tea Co. Inc., at p. 837; Tiger, Inc., at p. 309. The statutory provision which provides the standards for issuing liquor licenses, M.G.L. c. 138, Sec. 23, makes specific reference to public need, public good, and providing an "adequate number of places" at which alcoholic beverages can be obtained. Therefore, as long as a local licensing board makes its decision based upon these statutory standards, the decision will not be overturned on the basis of an error or law. Further, the decision will not be deemed arbitrary or capricious so long as it is based on certain facts and information that the board deems relevant concerning public need, public welfare, or an adequate number of localities.

C. Harm To The Public Welfare

The proposed relocation of the license to the Stop & Shop premises will result in an oversaturation of licensed establishments in the area and will very likely lead to increased possession and consumption of alcoholic beverages by minors.

The license which Stop & Shop seeks to purchase and transfer is currently located at Plum's Package Store in Harwich Port, which is approximately 5 miles from the Stop & Shop location. Plum's Package Store has been successfully serving a separate and distinct population area. Harwich East has successfully operated for over 20 years at its location on Route 137, providing full alcoholic beverage service to inhabitants in the area and other financial benefits including employment of local residents, rental income to the local landlord and tax revenues. Allowing the transfer of a license from Plum's to the Stop & Shop, which is directly across the street from Harwich East, will simply result in oversaturation of licensed establishments in one area. As noted, there are already 7 package stores within 3 miles of the Stop & Shop location, another 7 package stores within 4 miles and an additional 8 package stores within 5 miles. Local law enforcement authorities are well aware that an increased number of available liquor sales locations in a given area will attract minors seeking to purchase alcoholic beverages, and will increase the probability of alcohol sales to minors.

Members of the Harwich Licensing Board are keenly aware of the dangers of alcohol consumption by minors. Harwich East and other package stores have organized their shops and their business operations to guard against any sale or theft of alcoholic beverages by minors. All employees of Harwich East are trained to identify false forms of age identification and to avoid sales to customers who may be under the influence of alcohol or other substances.

A large retail operation such as a Super Stop & Shop, selling a vast variety of products in a substantial building area with multiple entrances and exits simply cannot provide the same level of

security against sales to minors and theft of alcoholic products by minors and persons under the influence of alcohol. Stop & Shop's application materials indicate that beer, wine and liquor will be displayed on shelves extending from the front to the back of the store. The open availability of alcoholic beverages in such a long, open space will no doubt enhance the likelihood of theft of alcohol products by minors and other customers who are under the influence of alcohol and seek to avoid detection at the checkout counters. Moreover, anyone who has purchased alcoholic beverages at a large chain food store is aware of more than a few occasions when poor training, young, distracted employees and other factors have resulted in obvious sales to minors. The sheer volume of sales and hiring practices clearly enhance the opportunity for illegal sales of alcohol. There is no "public need" for a further licensed establishment in the area of the Stop & Shop store. Moreover, it is contrary to the public welfare to allow the transfer of an alcoholic beverage license to a business operation in that locality that cannot provide the degree of security against illegal sales that is already provided by the package stores in the neighborhood.

D. Opposition Of Local Residents

The "views of the inhabitants in the locality in which the license is sought" is a proper concern of the local licensing authority. Ballarin, Inc. at p. 511; Beacon Hill Civic Assn. v. Ristorante Toscano, Inc., 422 Mass. 318,322 (1996). In the present case, local businesses have submitted petitions signed by overwhelming numbers of local residents opposed to the Stop & Shop license request. Many more residents plan to attend the license hearing to voice their objection to the transfer and relocation of this license. The concerns of these citizens are genuine and substantial, and the Licensing Board should give due weight to these concerns in reaching its decision.

CONCLUSION

On the basis of the foregoing points and authorities, John Kenney, Jon Alger and John & Jon United Corporation respectfully request that the Licensing Board deny Stop & Shop's application for transfer and relocation of the all alcoholic beverage license.

> Respectfully submitted John Kenney, Jon Alger, and John & Jon United Corporation By their attorneys,

H. Glenn Alberich, Esq., BBO # 013880

64 West Pasture Lane, Tisbury, MA 02568

Tel: 508-696-4666 / Fax: 508-696-4665

HGA:lar

ce: Larry Ballantine

Peter Hughes Angelo LaMantia **Edward McManus**

CARTWRIGHT & RASCATI

Attorneys at Law

JOHN C. CARTWRIGHT, Esq. ANN E. RASCATI, Esq.

45 Barnstable Road, P.O. Box 2045 Hyannis MA, 02601 Tel.: 508-771-7768 ♦ Fax: 508-771-7769

Email: lawyer@cape.com

March 14, 2013

Via First Class Mail

Linda A. Cebula, Chair Harwich Board of Selectmen 732 Main Street Harwich, MA 02645

Dear Ms. Cebula:

Of Counsel

NAR 15 2013

ADMINISTRATOR'S

OFFICE

JOSEPH M. GUAY, Esq.

Nantucket, MA

I write in support of local small businesses, in particular, Harwich East Liquors. I find it appalling that Stop and Shop, a multi-national food conglomerate, is once again applying for a license to sell alcohol out of their Harwich location. How is it that the town of Harwich is even giving this corporate giant the proverbial time of day, when there are 20 small businesses within a 5 mile radius who need the support of their local town board?

This should be a slam dunk. If we want to maintain the character of Cape Cod, if we want to keep it safe for our children and grandchildren, and most importantly, if we want to keep dollars spent locally in the local economy then the only rational vote is to say "NO!" to corporate giants like Stop and Shop. Being a small business owner is difficult enough in this economy without paving the way for greedy corporations to give them more competition. It's David and Goliath all over again, only this time we need the Harwich Board of Selection to throw the stone and stop this giant once and for all.

While I live in Barnstable, I've been a customer of John Kenney's for many years now and it's troubling to see such a hard working family man repeatedly have to invest time and money into holding the tiger at bay. He and others like him should be focused on their businesses and not worrying about their livelihood being taken away from them by the likes of huge corporations who will take their profits off Cape Cod and put them into the pockets of their millionaire officers and directors.

I urge the Harwich Board of Selectmen to relieve the burden on small businesses by putting a stop to Stop and Shop once and for all. Thank you for your time and attention to this letter.

Sincerely yours,

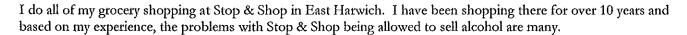
Ann E. Rascati

March 12, 2013

Linda A. Cebula, Chair Harwich Board of Selectmen 732 Main Street Harwich, MA 02645

RE: Stop & Shop Liquor License

Dear Ms. Cebula,



- 1. A significant number of employees working the checkout area are under the legal drinking age. They aren't allowed to sell alcohol. Are there really enough "of age" folks here on the Cape to take those positions in the off season and still keep the lines at a reasonable length to check out?
- 2. Once summer arrives, many young folks from countries that allow drinking below our legal age limit work the checkout areas. While they may be of age, can all of them be trusted to ask patrons for proof of legal age? Of course not.
- 3. There are probably a half dozen self-checkouts at Stop and Shop. How can they effectively be monitored to prevent underage sales? As it is it can be difficult to find someone to help when there is an issue.
- 4. The hand scanner feature is yet another concern. How will that be monitored? A teenager could walk in with their parent's loyalty card, scan it and buy alcohol and leave before anyone is aware of it.
- 5. Finally, there is the issue of protecting small business on the Cape. Small businesses are a huge part of the character of the Cape. It's not just a liquor store in the immediate area that would be impacted...it would be any liquor store within a few miles that would be affected. Without small business, we will look and feel just like everywhere else.

Personally, my husband and I moved to the Cape because of the unique character and small town feel. It would be a shame for the Town to allow what could be the beginning of the end of that character.

Please vote against allowing Stop and Shop to sell alcohol.

Thank you for time and consideration.

ancelle poudere

Danielle Jesudowich

Brewster, MA

EXCERPT OF MINUTES PERTAINING TO STOP & SHOP LIQUOR LICENSE APPLICATION FROM SEPTEMBER 18, 2012

PUBLIC HEARINGS/PRESENTATIONS (*Not earlier than 7:00 P.M.*)

A. **Public Hearing** – Application for Change of Location and Transfer of Annual, Package Store, All Alcoholic Beverages License held by D.J. Henry, Inc. d/b/a Pleasant Lake General Store to Packaging Center, Inc. d/b/a Super Stop & Shop

Mr. Ballantine read the hearing notice into record. Mr. McManus recused himself as Mr. Henry is a client of his and he departed the meeting.

Attorney William Crowell, representing Packaging Center Inc., which he noted is owned by Stop & Shop, submitted the abutter affidavit, outlined the application and noted that this will be the fourth license to be held by Stop & Shop in Massachusetts. He noted that the 4 corners was designed to be the new commercial center in Town and affords access to 3 other towns so in addressing the issue of convenience, Stop & Shop is already there. He stated that this creates one stop shopping and would not cause any significant increase in traffic as we are only talking about the customers that are already frequenting the Stop & Shop. He said that in reviewing Chief Norman Clarke's letter he does not see public safety issues. He reviewed the locations of the other licenses in Town with 4 in Harwich Port, 2 in West Harwich, 2 in Pleasant Lake, 2 in Harwich Center, but only 1 in East Harwich which is the fastest growing precinct in the Town so there is a definite need for a liquor license in this location. He submitted a petition of over 2,000 signatures that were collected at the Stop & Shop location in support of granting this license and he stated that the Board needs to makes to make a determination as to public need at this location. He stated that he feels the opposition knows there is a need at that location and are trying to control competition. With regard to security, he stated that Stop & Shop will not be selling nips, pints, half pints or kegs, the floor plan area is well defined and there will be display areas at different areas in the store. He explained that Stop & Shop has state-of-the-art security measures that will be designed and implemented including a sales area that will be caged and locked down every day, cameras in place with security specialists including a public view monitor, fixed cameras, tv monitors and recorders and they will be doubling their security hours. He further noted that everybody will be carded regardless of age and there will be locks for bottle caps that will only be removed after approval. Mr. Crowell noted that Stop & Shop has had no citations at any of their 3 locations. He submitted the petition to the Board.

Mr. Hughes asked what the proposed hours are and Mr. Crowell responded they are 8:00 to 11:00 Monday to Saturday and 12:00 to 10:00 on Sunday with a gated area under padlock when not in operation. Chairwoman Cebula questioned how they would secure wine in other parts of the store and if it would be locked down. Mr. Crowell responded it would not be but they are not married to the idea of that not being under lock and key.

Ben Feller, Manager of Customer Service for the region for Stop & Shop, described training for employees in this regard in response to an inquiry by Mr. Ballantine. He noted that the employees will be required to have TIPS training, every ID will have to be scanned at point of sale and the registers lock up until the ID is cleared. Chairwoman Cebula asked how they would

handle the issue of underage cashiers ringing up alcohol. Mr. Feller said that person will not be able to touch the alcohol but rather they call for help and there is always a supervisor on the front end that will handle the process. Mr. Hughes questioned the employment impact and Mr. Feller said there will be additional hours for a liquor store manager, assistant manager and a part-timer. Mr. Crowell noted that there are 16 minors at the store out of 257 employees with 12 of them at the registers.

Taylor Mills of Gorham Road questioned if the scanners accept out of state licenses and would a call be generated to police for a false license. Mr. Feller stated that the scanner recognizes all Massachusetts, United States and Canada ID's including military ID's and passports. He noted that it will recognize a false ID.

Richard Abraham of the Stop Loss Prevention department said they would confiscate a false ID and contact the Police Department.

Noreen Kennedy questioned how they are going to prevent kids from scanning someone else's ID's. Mr. Feller said the ID has to be presented to the person at the register and they would verify it just as any other business would do that sells alcohol. He said the scanner is an additional fail safe step. Ms. Kennedy pointed out that the person at the register can be a friend of the purchaser and Mr. Feller said everyone would be carded.

Joe DellaMorte, owner of Cranberry Liquors, questioned if six packs will have the security locks on them and Mr. Crowell responded that the locks will be on the liquor bottles and not the beer bottles.

Glen Albrick representing the owners of Harwich East Liquors, noted that he sent a letter dated September 14 indicating that there is substantial legal authority to deny the application. He said there are many cases on this subject that show that this isn't just about public need but it is about public welfare as well. He commented that public need must protect the common good.

Don Howell opposed the application particularly the purchase of it for \$170,000 and minors working there. He said it is illegal to sell a liquor license. He stated that he would not take a child into a liquor store and if Stop & Shop has liquor there, he won't go there either with a child. He stated that "one dirty little secret that they are not addressing is that they paid people to have them sign the petitions as you were going in and out of the supermarket. That wasn't a passing thought. There were people standing outside with clipboards and asking you to sign. I'm not even sure that everybody knew what they were signing but it was done with people requesting signatures, it wasn't just sitting on the counter, at least a portion of it."

Taylor Perault said he is in favor of the license, minors are already getting liquor from other stores and Stop & Shop has electronic safeguards to prevent underage sales as well as a track record of no problems. He stated that you can't hold them to a standard that you don't hold other stores to.

Karen Fenton read a statement of support from another resident, Gerald Smith.

Sarah Parmenter said she was speaking on behalf of her aunt who she said was in support of this and favors the one stop shopping.

John Litman spoke in support of the transfer noting that they are going to far greater measures than other stores. He read letters of support from Rebecca Smith and Bob Lawton.

Joy Caparello spoke in support noting the convenience to shoppers.

Dave Otis said he supports free enterprise and doesn't believe it would hurt competition.

Jon Kenney of Harwich East Liquors submitted a petition of 1,349 signatures in opposition. He urged the Board to deny the application based on public need and public safety and he read a letter as such.

Josh Norris, owner of Shop Ahoy Liquors, said there is no public need, the market is saturated in the area, and he provided a petition of 1,100 signatures from Chatham in opposition.

John Dickson, Brewster Selectman, noted that the Brewster Board of Selectmen voted on September 17th to voice their concerns regarding this application including the effect this will have on small businesses in the community and the ability of Stop & Shop to properly maintain and monitor the sale of alcohol. He stated that he personally opposes the license as well.

Dauberry Sherlock, employee of Luke's Liquors, was opposed due to safety and employment issues. She noted that there is no fail safe security and that it is illegal to confiscate ID's.

Brian Mannel stated we have ample places to buy liquor and asked the Board to oppose this.

Chief Mason stated that it is illegal to confiscate fake ID's. He stated that they have numerous kids taken to the hospital with alcohol poisoning and that is his main concern. He said he would hate to see another distribution point with what he sees as easier access.

Barry Sauder said he is in support because of free enterprise and convenience.

Val Peter said Stop & Shop should stay out of the booze business.

Taylor Mills, retired Hingham Police Chief, said no liquor license like this has ever been granted that didn't increase the demands on public safety.

Todd Marcus, owner of Cape Cod Beer, said he opposes the license and supports local business.

Roy Mannel said its unfair competition from a large corporation and he supports local business.

Chief Clarke said it is inappropriate for a large supermarket to sell beer and wine and noted that we have people with drinking problems here. He said we have control with the smaller businesses and the problems don't happen in the store, they happen in the parking lot.

Mr. LaMantia moved to close the public hearing. Mr. Hughes seconded the motion. Chairwoman Cebula granted Mr. Crowell permission to speak. Mr. Crowell stated that case law provides that you can sell a liquor license. He noted that Stop & Shop did not pay people to sign the petition as Mr. Howell alleged. He said they are not looking to increase the number of licenses as this is a transfer. He noted that Stop & Shop is willing to forgo the display sales and just have everything in a lockdown cage. He added that healthy competition is good and we should not try to control competition. The motion carried by a unanimous vote.

The Board discussed the application and testimony in relation to the Ballarin factors. Mr. LaMantia questioned what we are starting here and whether we should require licenses to be turned in or do we start selling licenses for \$170,000. Mr. Crowell noted that the ABCC General Counsel was contacted by the Administrative Secretary who indicated that this is common practice throughout the state. Mr. Hughes said it is a much bigger operation, he believed there to be more negative than positive testimony. He said the fundamental question is that we have two major supermarkets in Town and do we want them to sell alcohol. Mr. Ballantine argued we have more than the public need for the locality. He was also concerned with the process of selling the license. He noted that the Chiefs have raised an interesting point about control issues and the control of the parking lots, entrances and exits even with the security measures. He said he was reluctant to accept that the training will be there with the large employee turnover.

Mr. Hughes said he was most concerned with the size of the operation, going from a tiny operation to a big operation, and Mr. Ballantine agreed. Mr. Ballantine said the "sort of operation" gets us into the control issues they talked about with a large store of this nature. The Board indicated they were most concerned with this type and size of operation and being able to control both inside and outside. Mr. Hughes said those are their 2 purposes to deny the license. The Board indicated that they should review the process for the future with regard to selling licenses versus turning them in. Mr. Crowell requested on behalf of the petitioner that the Board allow them to withdraw the application without prejudice. Mr. Ballantine moved to accept the withdrawal without prejudice for the Stop and Shop license application. Mr. LaMantia seconded the motion and the motion carried by a 3-1-0 vote with Mr. Hughes in opposition.

Note: All documents submitted at this hearing are on file in the Board of Selectmen's Office.

Friends of the South Harwich Meetinghouse,Inc. P.O. Box 786 Harwich, MA 02645 (508)432-0954 (508)364-5223

Linda A. Cebula, Chair Board of Selectmen 732 Main Street Harwich, MA 02645



March 8, 2013

Dear Members of the Board,

Following up on our request letter of September 20, 2012, we are writing to request that we begin working with the town on planning for the future South Harwich Meetinghouse use policy.

We are tentatively hoping for the grand opening celebration of the Meetinghouse as a Cultural Center for the Arts, Education and Community Use in September of 2013, if all goes as planned. Since our License Agreement between the town and the Friends of the South Harwich Meetinghouse, Inc. will be due for renewal in October of 2013 and we have already received a request by a group seeking use of the building in September as well, we would like to begin working with the Town on establishing the parameters of future community use of the Meetinghouse.

Thank you again for your most appreciated support as we look forward to meeting with you and working together toward an exciting and secure future for this historic Harwich treasure!

Sincerely,

Judith A. Ford, President

Julith 4. Ted

NSTAR Electric & Gas Corporation One NSTAR Way, Westwood, Massachusetts 02090-9230



Dear Property Owner,

To maintain safe and reliable service, NSTAR Electric will be performing tree work in your area. A forester has identified hazardous trees growing near the power lines on your property. Due to undesirable growth or structural defects, these trees should be removed. The forester has indicated them with **Blue Flagging**. The flagging may be tied to or around the tree. For difficult to reach trees, the flagging may be tied to a shrub or fence close to the tree. Once you have signed and returned the enclosed permission form, these trees will be marked with a blue "X" and **removed** at a later date. Stumps will be cut to within 1-3 inches of the ground.

With your permission, NSTAR will remove these trees, and take away the debris, at NO CHARGE TO YOU.

Please fill out and sign the enclosed permission form and return it to NSTAR in the envelope provided. If you have any questions, contact me at 508-454-0595 and I will return your call as soon as possible.

ADMINISTRATOR'S OFFICE

Your cooperation is appreciated,

Michelle Martinat

Michelle Martinat ACRT Utility Forester

NSTAR Electric & Gas Corporation Yarmouth One NSTAR Way Westwood, MA 02090-9909 ATTN: Martinat Veg. Mgmt.



VEGETATION MAINTENANCE

Property Owner Tree Removal Form

Date: FEBRUARY 28, 2013									
Name: HARWICH TOWN OF - SELECTMEN									
Address: Phone Number: ()									
732 MAIN ST HARWICH, MA 02645									
Circuit: 4-95A- 599 Pole: 4/ 66-67									
Tree Removals at: PARCEL 63-J2-0-E; LOCATED NEXT TO 1211 ORLEANS RD									
small - medium: 4 OAK									
REMOVE WOOD? YES NO									
I am the property owner/authorized representative, and do hereby give permission to cut down trees that interfere with the safe and reliable operation of NSTAR electric lines as described above. I understand NSTAR Electric is paying for the cost of the described work to be performed and will cut down trees marked with a blue "X". Tree stumps will be flush cut 1"-3" above the ground. In the event a tree is located on town government land or jurisdiction, I agree to the removal as a property owner abutter. Property owner should not infer health or safety of adjacent trees just because removal recommendations were not made. The described work is designed to mitigate the risk of failure, not to eliminate all risk.									
Owner/Authorized Representative Michelle Martinat									
NSTAR Electric Representative									



VEGETATION MAINTENANCE

Property Owner Tree Removal Form

Date: FEBRUARY 27, 2	013						
Name:							
HARWICH TOWN OF -	SELECTMEN						
Address: 732 MAIN ST	Phone Number: ()						
HARWICH, MA 02645							
Circuit: 4-95A-599	Pole: 4/ 52-53						
28 Tree Removals at: 0 ORLEANS RD, PARCEL ID: 63-P2-7-0-E. TREES GROWING INTO POWER LINES, IN FRONT OF POND, ALONG ORLEANS ROAD, BETWEEN 6 LITTLE LANE AND 1151 ORLEANS RD.							
small - medium: 26 POPLAR, 1 OAK medium - large: 1 POPLAR							
REMOVE WOOD?	YESNO						

I am the property owner/authorized representative, and do hereby give permission to cut down trees that interfere with the safe and reliable operation of NSTAR electric lines as described above. I understand NSTAR Electric is paying for the cost of the described work to be performed and will cut down trees marked with a blue "X". Tree stumps will be flush cut 1"-3" above the ground. In the event a tree is located on town government land or jurisdiction, I agree to the removal as a property owner abutter. Property owner should not infer health or safety of adjacent trees just because removal recommendations were not made. The described work is designed to mitigate the risk of failure, not to eliminate all risk.

Owner/Authorized Representative

Michelle Martinat

NSTAR Electric Representative



VEGETATION MAINTENANCE

Removal Form for Trees on Property Lines

Date: February 28, 2013									
Name: HARWICH TOWN OF - SELECTMEN									
Address:	Phone Num	ber: ()							
732 MAIN ST									
HARWICH, MA 02645									
Circuit: 4-95A- 599	Pole: 4/66-68								
The following trees may be & 1229 ORLEANS RD small-medium trees: 4 OA medium-large trees: 3 OA	K	etween PARCEL 63-J2-0-E							
REMOVE WOOD?	YES	NO							
I am the property owner/autho down trees that interfere with a described above. I understand work to be performed and will be flush cut 1"-3" above the grand or jurisdiction, I agree to should not infer health or safet were not made. The described eliminate all risk.	the safe and reliable operation NSTAR Electric is paying for cut down trees marked with round. In the event a tree is let the removal as a property oway of adjacent trees just because	or of NSTAR electric lines as for the cost of the described a blue "X". Tree stumps will located on town government oner abutter. Property owner use removal recommendations							
Owner/Authorized Represen	tative for PARCEL 63-J2-0)-E							
Michelle Martinal									

LEASE PAYMENT - TOWN OWNED LAND IN WEST HARWICH

ARTICLE To see if the Town will vote to authorize the Board of Selectmen to direct any lease payment and/or contribution by the Affordable housing Developer (for new construction) to support work for the existing building (West Harwich School) shown of Assessors Map10 as Parcel G-10, located at 5 Bells Neck Road, West Harwich for the purposes and upon the terms and conditions set out in the vote under Article 60 of the 2006 Annual Town Meeting, as amended by the vote under Article 13 of the February 11, 2008 Special Town Meeting, as amended by the vote under Article 12 of the May 8, 2008 Special Town meeting and on such other terms and conditions as the Selectmen may determine and to act fully thereon. By Request of the Harwich Housing Committee.

agreement(s), will contain provisions for the affordable housing rental units to remain affordable in perpetuity, will provide standards for the lessee's maintenance of the building(s), will provide for preference to the Town of Harwich residents (regarding the housing units) to the fullest extent of the law, and provide for whatever else the Board of Selectmen deem appropriate to protect the interest of the Town of Harwich, and to act fully thereon. By request of the Harwich Housing Committee. Estimated Cost: \$_______.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

MOTION: (Brian Widegren, Chairman-Finance Committee) I move that this article be accepted and adopted as printed in the warrant with the following change: at the end of the line numbered one, add the following language:

The market rate housing units may be included initially only to the extent necessary to make the overall project financially feasible, upon approval of a vote by the Board of Selectmen. Any such market rate housing units will be changed over to affordable housing units no more than 10 years from the date of occupancy.

Duly seconded

ACTION: This article needs a 2/3 majority vote to pass; it is determined to have received the necessary 2/3 vote and passes.

LEASE PROPERTY FOR MULTI - PURPOSE USE IN WEST HARWICH

ARTICLE 60. To see if the Town will vote to transfer the care, custody, management and control of the land and building described in this article from the Board of Selectmen for general municipal purposes to the Board of Selectmen for the purpose of leasing on a long term basis to a non profit organization as follows:

1. The open land for the construction of rental-affordable/market rate housing units.

2. The existing building for Arts, Cultural, Educational or other use as deemed appropriate by the Board of Selectmen.

And further to authorize the Board of Selectmen to issue and act upon a Request(s) For Proposal (REP) to garner development concepts from appropriate entities, which will generate a long term lease agreement for the construction of the new Building(s), the site improvements, restoration and renovation the existing building, for a parcel of land (0.63 acres) with an existing building (West Harwich School) as shown on the Assessor Map 10 Parcel G 10 located at 5 Bells Neck Road, West Harwich.

The Town of Harwich will maintain ownership of the land and all buildings existing and newly constructed thereon. Deed restrictions, will limit the sale and/or transfer of the lease agreement(s), will contain provisions for the affordable housing rental units to remain affordable in perpetuity, will provide standards for the lessee's maintenance of the buildings and site, will provide for preference to the Town of Harwich residents (regarding the housing units) to the fullest extent of the law, and provide for whatever else the Board of Selectmen deem appropriate to protect the interest of the Town of Harwich, and to act fully thereon. By request of the Harwich Housing Committee. Estimated Cost: \$_______.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

MOTION: (Brian Widegren, Chairman-Finance Committee) I move that this article be accepted and adopted as printed in the warrant with the following changes: the reference to parcel G 10 be changed to parcel G 1, and add the following language at the end of the line numbered one:

Market rate housing units, to the extent allowed, may be included initially only to the extent necessary to make the overall project financially feasible, upon approval of a vote by the Board of Selectmen. Any such market rate housing units will be changed over to affordable housing units no more than 10 years from the date of occupancy.

Duly seconded

<u>AMEND MAIN MOTION</u>: (Thomas Huckman, Housing Committee) I move that an additional amendment be made by deleting the phrase "to a non profit organization" from the first paragraph.

Duly seconded

ACTION ON THE AMENDMENT: The amendment carries.

ACTION ON THE MAIN MOTION AS AMENDED: This article needs a 2/3 majority vote to pass; it is determined to have received the necessary 2/3 vote and passes.

APPROVE AFFORDABLE HOUSING PROPOSAL FOR DRIFTWOOD LANE
ARTICLE 61. To see if the Town will vote to approve the proposal to develop housing on a
parcel of land on Driftwood Lane pursuant to the requirements of Article 41 of the 2004 Annual
Town Meeting. Also, to see if the Town will vote to authorize the Board of Selectmen to enter
into a lease for the land and any other contracts necessary to develop affordable housing on this
property. The property is shown on Assessor's Map 53 Parcel G3-1, containing approximately
nine (9) acres, and to act fully thereon. By request of the Harwich Housing Committee.
Estimated Cost: \$______.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

MOTION: (Brian Widegren, Chairman-Finance Committee) I move that this article be accepted and adopted and that the Board of Selectmen be authorized to take all actions necessary to effectuate the proposal to develop affordable housing on the land described in the article received and accepted in response to the request for proposals issued by the Board of Selectmen pursuant to Article 41 of the 2004 Annual Town Meeting, including a lease of the land and any other contracts, upon such terms and conditions as the Board of Selectmen deems necessary and appropriate to carry out the purpose of this article.

Duly seconded

ACTION: This article needs a 2/3 majority vote to pass; it is determined to have received the necessary 2/3 vote and passes.

ARTICLE 62. To see if the Town will vote to have the Moderator appoint a School Building Needs Committee, and to act fully thereon. By request of the School Committee. THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. TO ASSESS NEEDS OF HIGH SCHOOL BUILDING. VOTE 5 TO 0.

MOTION: (Brian Widegren, Chairman-Finance Committee) I move that this article be accepted and adopted.

Duly seconded

AMEND MAIN MOTION: (Leo Cakounes) I move to amend the motion by making one change: strike the word "Moderator" and insert the phrase "Board of Selectmen."

Duly seconded

ACTION ON AMENDMENT: It is a unanimous vote, so declared.

(Proposition 2 ½) the amount required to pay for the capital outlay expenditure authorized by this vote.

Duly seconded

ACTION: It was a unanimous vote, so declared.

LEASE OR PURCHASE NEW EQUIPMENT

ARTICLE 12. To see if the Town will vote to transfer and/or borrow a sufficient sum of money to purchase and equip the following equipment:

One (1) new Holder Tractor with Boom Flail Mower

\$ 98,859

less first payment of Forestry Grant

(\$18,750)

Estimated Cost:

\$80,109

and to act fully thereon. By request of the DPW Director

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED FOR THE AMOUNT OF \$73,859; FUNDED BY AVAILABLE FUNDS. VOTE: YES-5, NO-0.

MOTION: (Robert Toombs, Chairman-Finance Committee) I move that this article be accepted and adopted and that \$73,859

transferred from Free Cash for this purpose.

Duly seconded

ACTION: It was so voted.

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AMEND ARTICLE 59 AND ARTICLE 60 OF THE 2006 ANNUAL TOWN MEETING ARTICLE 13. To see if the Town will vote to amend Article 59 – Lease Property for Multi-Purpose Use in Harwich Center, and Article 60 – Lease Property for Multi-Purpose Use in West Harwich of the May 2006 Annual Town Meeting and delete the following requirement: "Any such market rate housing units will be changed over to affordable housing units no more than 10 years from the date of occupancy" and to act fully thereon. By request of the Housing Committee.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-4, NO-1.

MOTION: (Robert Toombs, Chairman-Finance Committee) I move that this article be accepted and adopted.

Duly seconded

ACTION: It was so voted.

MEDICARE EXTENSION PLANS; MANDATORY TRANSFER OF RETIREES

ARTICLE 14. To see if the Town will vote to accept M.G.L. Ch. 32B Section 18 that requires all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, be required to enroll in a Medicare health benefits

The Planning Board is very interested in working with other Town departments and committees to examine strategies that create incentives for the development and increase in the Town's affordable housing inventory.

ACTION: The motion did not carry.

LEASE TOWN-OWNED LAND ON SISSON ROAD

ARTICLE 11. To see if the Town will vote to authorize the Board of Selectmen to lease the parcel of land (1.11 acres) with an existing building (Recreation Building), shown on Assessors Map 40 as Parcel Z-5, located at 265 Sisson Road, Harwich Center, for the purposes and upon the terms and conditions set out in the vote under Article 59 of the 2006 Annual Town Meeting, as amended by the vote under Article 13 of the February 11, 2008 Special Town Meeting, for a term of not more than 99 years and on such other terms and conditions and for such consideration as the Selectmen may determine, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-5, NO-0.

MOTION: (Robert Tombs, Chairman-Finance Committee) I move to authorize the Board of Selectmen to lease all or any portion of the parcel of land (1.11 acres) with an existing building (Recreation Building), shown on Assessors Map 40 as Parcel Z-5, located at 265 Sisson Road, Harwich Center, for the purposes and upon on the terms and conditions set out in the vote under Article 59 of the 2006 Annual Town Meeting, as amended by the vote under Article 13 of the February 11, 2008 Special Town Meeting, for a term of not more than 99 years and on such other terms and conditions and for such consideration as the Selectmen may determine, and to further amend the vote under said Article 59 to delete the words "and newly constructed" from the sentence: "The Town of Harwich will maintain ownership of the land and all buildings existing and newly constructed thereon."

ACTION: Unanimous vote, so declared.

LEASE TOWN-OWNED LAND IN WEST HARWICH

ARTICLE 12. To see if the Town will vote to authorize the Board of Selectmen to lease the parcel of land (.63 acres) with an existing building (West Harwich School), shown on Assessors Map 10 as Parcel G-10, located at 5 Bells Neck Road, West Harwich, for the purposes and upon the terms and conditions set out in the vote under Article 60 of the 2006 Annual Town Meeting, as amended by the vote under Article 13 of the February 11, 2008 Special Town Meeting, for a term of not more than 99 years and on such other terms and conditions and for such consideration as the Selectmen may determine, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-5, NO-0.

MOTION: (Robert Tombs, Chairman-Finance Committee) I move to authorize the Board of Selectmen to lease all or any portion of the parcel of land (.63 acres) with an existing building (West Harwich School), shown on Assessors Map 10 as Parcel G-1, located at 5 Bells Neck Road, West Harwich, for the purposes and upon the terms and conditions set out in the vote under Article 60 of the 2006 Annual Town Meeting, as amended by the vote under Article 13 of the February 11, 2008 Special Town Meeting, for a term of not more than 99 years and on such other terms and conditions and for such consideration as the Selectmen may determine, and to further amend the vote under said Article 60 to delete the words "and newly constructed" from the sentence: "The Town of Harwich will maintain ownership of the land and all buildings existing and newly constructed thereon."

ACTION: Unanimous vote, so declared.

MEDICARE EXTENSION PLANS; MANDATORY TRANSFER OF RETIREES

ARTICLE 13. To see if the Town will vote to accept M.G.L. Ch. 32B Section 18 that requires all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the town, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-5, NO-0.

<u>MOTION</u>: (Robert Tombs, Chairman-Finance Committee) I move that this article be accepted and adopted

Duly seconded

ACTION: A standing count was taken; YES 64 NO 99, the motion did not carry.

AN ACT RELATIVE TO HEALTH INSURANCE COVERAGE FOR PAID ELECTED OFFICIALS IN THE TOWN OF HARWICH

ARTICLE 14. To see if the Town will vote to authorize the Board of Selectmen to file a home rule petition with the General Court as set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding Chapter 32B of the General Laws, part-time elected officials of the Town of Harwich who receive a salary or a stipend shall not be eligible for participation in the town's contributory health and life insurance plan, except that those part-time officials who participate in that plan as of the effective date of this act shall be eligible to continue to participate until the end of their current term of service in the elected position held at the time this act takes effect. Retired elected officials that receive benefits by virtue of their previous service, shall not be affected by this act. Part-time elected officials who receive a salary or a

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5.	Fund purchase of Land for open Space Purposes
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11.	Beach Road - Take by Eminent Domain
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COMMONWEALTH OF MASSACHUSETTS TOWN OF HARWICH SPECIAL TOWN MEETING TUESDAY, MAY 7, 2013

BARNSTABLE, ss:

To either of the Constables of the Town of Harwich in said county,

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in elections and Town affairs to meet in the Community Center Gymnasium, 100 Oak Street in said Town on Tuesday, May 7, 2013 at 8:00 P.M., then and there to act on the following articles:

FUND NEW GENERATOR FOR THE FIRE DEPARTMENT

ARTICLE 1 To see if the town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to purchase one new generator for Fire Station One and to act fully thereon. By request of the Fire Chief. Estimated cost: \$10,000.00

REPLENISH POLICE AND FIRE TRUST FUND ACCOUNT

ARTICLE 2 To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to the Police and Fire Claims Trust Fund Account for Fiscal Year 2013 and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$20,000

EXECUTE PERMANENT NSTAR EASEMENT FOR NEW MONOMOY HIGH SCHOOL

ARTICLE 3 To see if the Town will vote to authorize the Board of Selectmen to execute a permanent easement with NStar Electric to install three (3) poles and transformer pad required by the construction of the new Monomoy Regional High School located at 81 Oak Street, Harwich, and to act fully thereon. By request of the Board of Selectmen.

AMERICANS WITH DISABILITIES ACCESS

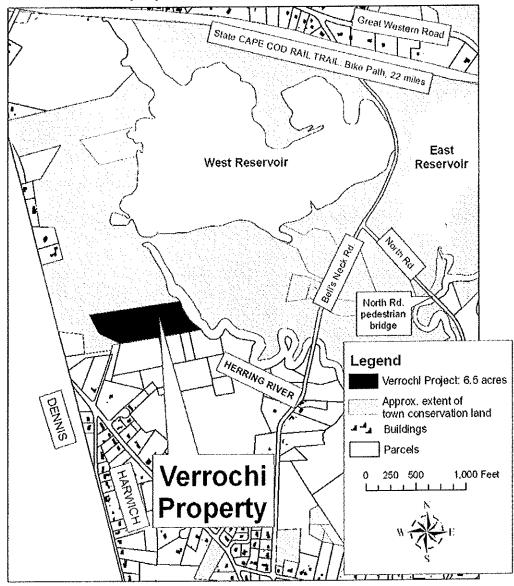
ARTICLE 4 To see if the Town will vote to appropriate, borrow and /or transfer a sum of money to meet ADA compliance with improved access on the Community Center walkway around the multi-purpose ballfields and installing handicap access sidewalk ramps on Main Street at Oak and Bank Street intersections and to act fully thereon. By request of the Board of Selectmen

FUND PURCHASE OF LAND FOR OPEN SPACE PURPOSES

ARTICLE 5 To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, or take by eminent domain for open space purposes under the provisions of

Massachusetts General Law (MGL), Ch. 40, §8C, land situated in the Town of Harwich, Massachusetts, consisting of 6.5 acres, more or less, [together with a right of way over Bald Hill Road in Harwich, Massachusetts together with all rights and easements and subject to rights and easements of record, which is identified on Assessor's Map 27, Lot E-1. The parcel is described in a deed recorded in Book 1022, Page 199 and, further, to appropriate a sum of money from the Community Preservation Act Funds - Open Space Reserve for said acquisition, appraisals, and closing costs, including all expenses incidental and related thereto, receipts pursuant to the provisions of ch.149, §298 of the Acts of 2004, as amended by Ch. 352, §§129-133 of the Acts of 2004, the so-called Community Preservation Act; to authorize the Board of Selectmen and the Conservation Commission to apply for, accept and expend any funds which may be provided by the Commonwealth or other public sources to defray a portion or all of the costs of acquiring this property, including but not limited to funding under the Self-Help Act, General Laws, ch.132A, §11, and/or the Federal Land & Water Conservation Fund, P.L. 88-568, 78 Stat 897, provided that any such funds so received shall be returned upon receipt to the Community Preservation Act Funds - Open Space Reserve; to authorize the Board of Selectmen to grant to the Trustees of the Harwich Conservation Trust, for no consideration, a perpetual Conservation Restriction, pursuant to the provisions of General Laws, ch.184, §31 through 33, allowing the aforementioned uses, to be recorded at the time of closing or within a reasonable amount of time thereafter; to authorize the Conservation Commission to assume the care, custody, control and management of the property; and to authorize the Board of Selectmen and Conservation Commission to enter into all agreements and execute any and all instruments as may be necessary on behalf of the municipality to effect this purchase and to obtain reimbursement funding which is to be returned to the Community Preservation Act Funds-Reserve; or to take any other action relative thereto. In the event that part or all of the CPA funds appropriated under this Article are not needed to complete this land purchase, those remaining CPA funds shall be promptly returned to the Community Preservation Act Funds - Open Space Reserve. Further, in the event that this purchase does not occur, for any reason, the CPA funds appropriated under this Article shall be promptly returned to the Community Preservation Act Funds - Open Space Reserve; and to act fully thereon. By request of the Community Preservation Committee and the Real Estate and Open Space Committee. Estimated cost: \$400,000

Conservation Significance of the Verrochi Property at Bell's Neck Conservation Lands, Harwich



CONSERVATION SIGNIFICANCE:

The Verrochi Property at Bell's Neck Conservation Lands is designated by the state with the following environmental significance:

1) Entirely within MA Natural Heritage & Endangered Species Program (NHESP) Priority Habitat for Rare Species = geographic

extent for state-listed rare species.

2) Entirely within NHESP Estimated Habitat for Rare Wildlife = based on occurrences of rare wetland wildlife in last 25 yrs. (used with MA Wetland Protection Act: 310 CMR 10.00).

3) Mostly within MA Statewide Land Conservation Plan = land in need of protection to sustain biodiversity.

4) Contains MA NHESP BioMap Core 2 Habitat = land that supports greatest viability for rare species and natural communities.

5) The 6.5-acre property provides approx. 365 feet of frontage on the Herring River.

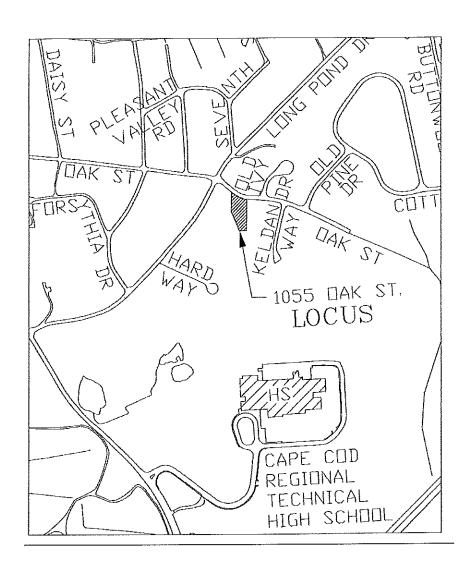
6) The 6.5-acre property is bordered on the north and west by the Town's Bell's Neck Conservation Lands.

APPROPRIATE FUNDS FOR CERTAIN LAND TAKING

ARTICLE 6 To see if the Town will vote to raise and appropriate a sufficient sum of money and authorize the Selectmen to take by eminent domain the below described parcel of real estate for the purpose of confirming the Town's title to said parcel. Said parcel is already owned by the Town through tax title proceedings.

16,569 +- Square Feet on 1055 Oak Street, Harwich, as described in a deed recorded at the Barnstable County Registry of Deeds in Book 7664, Page 116, also shown as lot 21 on plan Book 244 Page 131 and shown on Harwich Assessor's Map 92 as Parcel H2-21.

And the Selectmen be authorized to take said land or interest therein on such terms and conditions and with such limitations as they deem appropriate the Town's interest and to raise and appropriate a sufficient sum of money for this purpose, and to act fully thereon. By request of the Board of Selectmen.



SUPPLEMENT SNOW AND ICE BUDGET

ARTICLE 7 To see if the town will vote to approve or transfer a supplemental sum of money to fund the Fiscal Year 2013 Snow and ice Budget, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$158,000

FUND OR LEASE TELECOMMUNICATIONS TOWER

ARTICLE 8 To see if the Town will vote to authorize the Board of Selectmen to build and/or lease a portion or portions of the property located at 196 Chatham Rd. shown on Assessors Map 33 as lots 3 and 5 and described in an instrument recorded with the Barnstable Registry of Deeds in Book 10319 Page 257, for telecommunications purposes, on such terms and conditions and for such consideration as the Board of Selectmen shall determine to be appropriate, such lease to be for a term of up to twenty (20) years, and further grant such access and utility easements on said property as the Board of Selectmen deems appropriate to serve the Telecommunications tower and other facilities installed pursuant to said lease; and to act fully thereon. By request of the Harwich Board of Water Commissioners and the Superintendent. Estimated cost: \$ 0

<u>Explanation</u>: With the installation of this facility it will allow the Harwich Water Department the ability to generate approximately \$60,000 per year to be used to pay for water department infrastructure repairs, as determined by the Board of Water Commissions. The Board of Water Commissioner will oversee all aspects of the lease for the next 20 years

PURCHASE OR LEASE NEW DUMP TRUCK FOR THE WATER DEPARTMENT

ARTICLE 9 To see if the Town will vote to raise and appropriate, or transfer from available funds, a sufficient sum of money to purchase and/ or lease a 2014 Peterbilt, Model 337 dump truck, and to act fully thereon. This is a 3 year lease of \$22,616 per year for three years. These funds will be generated by water rates. By request of the Harwich Board of Water Commissioners and the Superintendent. Estimated cost: \$67,848

Explanation: In 2009 the Water Department purchased a 2009 Ford 750 Dump Truck through a government contract. This truck came with a CAT engine. This Truck has been in for repairs 8 times for what the service center calms to be several different reasons. However, it all has to do with the CAT Engine. They told us that the next time we brought in this truck we would be looking paying a \$20,000 dollar repair bill. With the advice of the Town Mechanic and the Highway Director we have been advised to trade the vehicle on a new Peterbilt Dump Truck. Our present Ford 750 has spent more time out of service than what we have used it. By request of the Board of Water Commissioners and Superintendent

FUND REPAIRS AND PAINTING OF LOTHROP AVENUE WATER STORAGE TANK

ARTICLE 10 To see if the Town will vote to raise and appropriate, or transfer from available funds, a sufficient sum of money to fund the needed structural repairs and interior and exterior painting of the 1.0MG Lothrop Avenue water storage tank, and to act fully thereon. By request of the Harwich Board of Water Commissioners and the Superintendent. Estimated cost: \$1,600,000

Explanation: The average life expectancy for paint on a water storage tank on Cape Cod is approximately 12 to 14 years. A partial rehab to the Lothrop Avenue tank was done in 1998 and a full rehab was done in 1995, which included interior and exterior painting. Extensive inspection of the Lothrop Avenue tank in 2012 revealed structural deficiencies that need to be addressed. The spider legged tanks are the most expensive type of tank to maintain because of all the rigging that must be done to complete this type of project. To replace the Lothrop Avenue tank with a tank of similar size, and one that would be much cheaper to maintain, would cost approximately \$4,500,000.00.

ACQUIRE LAND ON SHORE ROAD FOR A PUBLIC BEACH

ARTICLE 11 To see if the Town will vote to authorize and direct the Board of Selectmen to acquire by gift, by purchase, by eminent domain or otherwise, for recreation and public beach purposes, that portion of Beach Road running southerly from Shore Road to Nantucket Sound as shown on the Town of Harwich Assessor's Map 2; and to raise and appropriate, or transfer from available funds, or borrow a sufficient sum of money for such acquisition; and, further, to authorize the Board of Selectmen to execute any and all instruments as may be necessary on behalf of the Town, and to act fully thereon. By request of the Board of Selectmen.

AMEND GENERAL BY-LAW CHAPTER 131, ARTICLE I, HISTORIC DISTRICT

ARTICLE 12 To see if the Town will vote to amend the General By-laws as follows:

Add the following to Section 131-2 – Establishment of historic district. "in addition to the parcels identified on the plan filed in the Town Clerk's office, the district shall also include the street layouts and public right of ways abutting parcels identified on the plan." and to act fully thereon. By request of Selectman McManus.

ACCESSORY APARTMENTS

<u>Underlined words</u> indicate language proposed for insertion <u>Italicized Words with Strike Through</u> indicate language proposed for deletion

ARTICLE 13 To see if the Town will vote to amend the Code of the Town of Harwich, Chapter 325 Zoning as set forth below and to act fully thereon. By request of the Planning Board.

Explanation: Standards for accessory apartments currently occur in three separate locations within the zoning by-law. These amendments combine all standards into one section under Special Permits. Specific changes include requirements for ownership and rental of units, septic systems, minimum lot size, entry location, and appearance of the property. A new provision is added to require a special permit for residential accessory buildings with bedrooms.

Revise ARTICLE II, Section 325-2, Definitions – DWELLING, ONE-FAMILY WITH ACCESSORY APARTMENT and Tables 1 and 2. Delete ARTICLE IV, Section 325-7.B, and ARTICLE X, Sections 325-51.H and 325-51.I, Special Permits, in their entirety. Add new sections under ARTICLES V and X to read as follows:

DWELLING, ONE-FAMILY WITH ACCESSORY APARTMENT - An owner-occupied residential dwelling containing a principal dwelling unit, either attached or detached, one of which has a net floor area not exceeding ½ of the net floor area of the principal dwelling unit but in no event more than 900 square feet and includes not more than two (2) bedrooms, a kitchen, living room and bath which are separate from and not used in common with the principal dwelling. The principal dwelling and the detached accessory apartment must share a common septic system. For the purpose of this definition, such dwelling shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year round basis, except for bona fide temporary absence during which the owner's unit is not rented.

<u>DWELLING</u>, <u>SINGLE-FAMILY WITH ACCESSORY APARTMENT – A single-family dwelling containing a principal dwelling unit and a separate accessory apartment, either attached or detached. The apartment shall contain a kitchen and bathroom which are separate from and not used in common with the principal dwelling unit.</u>

ARTICLE V. Use Regulations [new]

325-14. Supplemental regulations.

Q. A residential accessory building that contains bedrooms is subject to special permit review pursuant to Section 325-51. Residential accessory buildings without bedrooms are not subject to special permit review.

ARTICLE X. Administration and Enforcement. [new]

325-51. Special permits.

- H. Single-family Dwelling with Accessory Apartment
 - (1) Purpose. The intent of permitting accessory apartments is to:
 - (a) Increase the number of small dwelling units available for rent in town;
 - (b) Increase the range of choice of housing accommodations;
 - (c) Encourage greater diversity of population with particular attention to young adults and senior citizens; and
 - (d) Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the town's single-family neighborhoods.
 - (2) Definitions.
 - (a) "Owner" shall be one (1) or more individuals holding title to the property.
 - (3) Criteria for Special Permit Approval
 Special permits for single-family dwellings with an accessory apartment, either attached
 or detached, may be granted upon determination by the Planning Board that the following
 criteria have been met:
 - (a) Only one accessory apartment is permitted for each principal dwelling unit.

- (b) The accessory apartment may not be held in separate ownership from the principal use.
- (c) The owner must reside in either the principal dwelling unit or accessory apartment for at least a portion of the year. Only one of the principal dwelling unit or accessory apartment may be rented at any given time.
- (d) The accessory apartment shall have a net floor area not exceeding ½ of the net floor area of the principal dwelling unit and not more than 900 square feet.
- (e) The accessory apartment shall have not more than two bedrooms.
- (f) One (1) off-street parking space shall be provided for the accessory dwelling unit.
- (g) Minimum lot area shall not be less than 15,000 square feet if situated in an RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in an RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District.
- (h) The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
- (i) The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
- (j) The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.
- (k) The proposed use shall not exceed the building or site coverage for the zoning district.
- (I) If an addition is to be built for the proposed use, the addition will be set back from front, side and rear lot lines the distance required in the zoning district for new construction.
- (4) The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the Special Permit decision
- (5) Transfer of Ownership
 The provisions of the S
 - The provisions of the Special Permit may be transferred with ownership of the property provided the provisions of this section and all other provisions of the Zoning code of the Town of Harwich and the State Building Code are met and the Planning Department has approved a transfer for the Special Permit. The new owner also may request a Planning Board Certification for the accessory apartment. To obtain such certification, the owner shall submit a written request with a statement that the conditions at the time of the original Special Permit approval remain unchanged and with a certification of ownership. The Planning Board Certification shall be recorded at the Registry of Deeds.
- (6) Failure to comply with these provisions or termination of occupancy by the owner shall result in the Special Permit becoming null and void, and one kitchen unit shall be removed from the property upon application to the building official at the expense of the owner.

Table 1, Use Regulations [revised]

		R	R	R	R	R	R	С	С	С	IL	M	M	WR
Use		R	L	M	Н	Н	Н	V	Н	Н		R	RL	
					-1	-2	-3		-1	-2		L	-1	
Para	agraph I – Residential	Uses												
1a	Accessory building, residential – without bedrooms	P	P	P	P	P	P	P	P	wa		Р	Р	Р
1 <u>b</u>	Accessory building, residential – with bedrooms	<u>S</u>	<u>S</u>	<u>s</u>	S	<u>S</u>	<u>S</u>	<u>s</u>	<u>s</u>	<u>-</u>		<u>s</u>	<u>S</u>	<u>S</u>
10	Single-family dwelling with accessory apartment (325-51H and I)	S	S	S	S	***		S	S		pe en	S	S	S

Table 2, Area Regulations [revised]

			Minimum Re	quired		
		Lot Area	Lot Frontage	Front	Side	Rear
District	Use	(square feet)	(contiguous feet)	(feet)	(feet)	(feet)
WR	Dwelling, single-family	60,000	Same as u	nderlying	g district	
	with accessory apartment	<u>40,000</u>				

SPECIAL PERMITS

<u>Underlined words</u> indicate language proposed for insertion *Italicized Words with Strike Through* indicate language proposed for deletion

<u>ARTICLE 14</u> To see if the Town will vote to amend the Code of the Town of Harwich, Chapter 325 Zoning as set forth below and to act fully thereon.

Explanation: The Planning Board recommends that the Board of Appeals continue to be the Special Permit Granting Authority for dimensional nonconformities that are normally related to residential structures. The Planning Board is now the Special Permit Granting Authority for uses allowed on a property. The proposed bylaw amendment clarifies that use special permits on properties with nonconformities also will be under the jurisdiction of the Planning Board. The proposed bylaw amendment has no impact on the Variance authority of the Board of Appeals.

Amend Chapter 325 Zoning by amending Article X, Administration and Enforcement, Section 325-51, Special permits, by striking out and substituting language as set forth below.

325-51. Special permits

The Board of Appeals shall have authority to hear and decide applications for all changes, alterations, or extensions of a nonconforming <u>residential</u> structure *or use* that require a special permit and for certification of continuance of existing dwellings under Sec. 325-51P. The Planning Board shall have authority to hear and decide all other applications for special permits.

PANHANDLE LOTS AND SHAPE NUMBERS

<u>Underlined words</u> indicate language proposed for insertion <u>Italicized Words with Strike Through</u> indicate language proposed for deletion

<u>ARTICLE 15</u> To see if the Town will vote to amend the Code of the Town of Harwich, Chapter 325 Zoning as set forth below and to act fully thereon.

Explanation: Panhandle lots are currently permitted in nearby Cape Cod towns such as Brewster, Chatham, Dennis and Orleans. They allow use of rear land with limited access that would otherwise require layout of new roads for adequate access. The intent of this by-law is to allow creation of a limited number of such lots while minimizing infrastructure costs. Standards for panhandle lots include minimum width and frontage, maximum length, adequacy of driveway design, and number of adjacent panhandle lots. A related action is replacement of lot circle requirements with a maximum shape number requirement. An attached illustration provides a clearer indication of how shape numbers are calculated.

Amend Chapter 325 Zoning by adding two new definitions under Article II. Definitions and by amending and adding language to subsections A. and Q. of Section 325-18 Additional Regulations under Article VI. Area, Height and Bulk Regulations as set forth below:

ARTICLE II: Definitions

"LOT, PANHANDLE" means a lot approved by the Planning Board under the Subdivision Control Law that is designed to provide adequate access even though the lot has less than the required frontage on a public or private way. Standards for panhandle lots are provided in Section 325-18.Q.

"SHAPE NUMBER" – The numerical value resulting from division of the square of the perimeter of a lot by the area in square feet thereof.

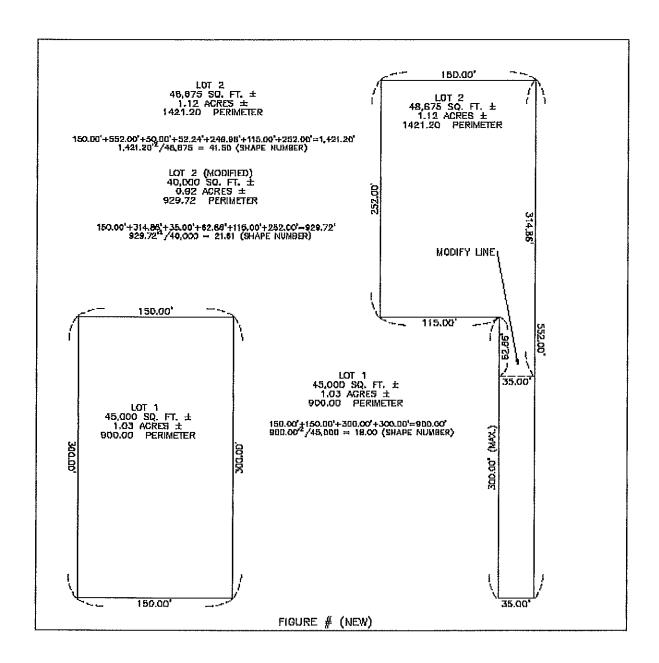
ARTICLE VI: Area, Height and Bulk Regulations

Section 325-18. Additional Regulations

A. The required minimum width of any lot hereafter laid out or created, measured along the front yard setback line, shall not be less than 80% of the required minimum lot frontage. In order to comply with the minimum square foot requirement, any lot hereafter created for building purposes must be a closed plot of land having a definite area and perimeter and having a shape number not exceeding the numerical value of 22, except that a lot may have a shape number larger than 22 provided that the site intended for building, is contained within a portion of said

lot, which said portion meets the zoning requirements of the area in which it is located and has a shape number not exceeding 22. The lot shape number shall be obtained by dividing the square of the lot perimeter (P), measured in feet, by the area of the lot (A), measured in square feet (i.e.: $P^2 \div A \le 22$).

- All lots hereafter created for building purposes shall be shaped so that they can contain either one circle of a diameter not less than the frontage requirement of the zoning district within which the lot is located or two circles tangent to each other, each of a diameter of not less than 70% of the frontage requirement of the zoning district within which the lot is located. In either case, one circle must be tangent to the lot frontage. The diameter of circles in cluster subdivision lots may be as small as the minimum allowable frontage for cluster lots.
- Q. Panhandle lots may be approved by the Planning Board under the Subdivision Control Law provided that the following conditions are met:
 - (1) Lot frontage and lot width within the panhandle portion shall be a minimum of 35 feet.
 - (2) The length of the panhandle portion of a lot shall be a maximum of 300 feet.
 - (3) <u>Suitable access by a driveway to such lot is provided within the panhandle and, in the opinion of the Board, the access is wide enough and otherwise satisfactory for a driveway.</u>
 - (4) All panhandle lots shall meet the shape number requirements of Section 325-18.A.
 - (5) No panhandle portion of any lot may be contiguous to another panhandle portion of a lot at the street line.



REPLACE BANKS STREET BOARDWALK

<u>ARTICLE 16</u> To see if the Town will vote to raise and appropriate, transfer or borrow a sum of money to replace the Bank Street Beach Boardwalk or take any action in relation thereto. Petition of DPW Director. Estimated cost \$15,000.

TRANSFER LAND IN NORTH HARWICH

ARTICLE 17 To see if the Town will vote to transfer the care, custody, management and control of the parcel of land described below, acquired by the Town through tax title proceedings, from the Town Treasurer/Collector for the purpose of sale to the Board of Selectmen for general municipal purposes or for the purpose of sale:

3.2 +/- acres on Main Street Extension, North Harwich, as described in a deed recorded at the Barnstable County Registry of Deeds in Book 26617, Page 138 and shown on Harwich Assessor's Map 55 as Parcel G8

And to vote to appropriate, transfer from available funds or borrow a sufficient sum of money to pay back to the Town the taxes, interest and fees that were owed for said parcel to the time of Judgment by the Barnstable Registry of Deeds Book No. 26617, Page No.138 on August 24, 2012; and to act fully thereon. By request of the Town Treasurer/Collector

COMMONWEALTH OF MASSACHUSETTS TOWN OF HARWICH ANNUAL ELECTION BALLOT MAY 21, 2013

BARNSTABLE, ss:

To either of the Constables of the Town of Harwich in said County,

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in elections and Town affairs to meet in the Community Center Gymnasium, 100 Oak Street, in said Town on Tuesday, May 21 2013, then and there to act on the following ballot:

POLLS WILL BE OPEN AT 7:00 A.M. and CLOSE AT 8:00 P.M.

To choose on one (1) ballot the following Town Officers and Committees: two (2) Selectmen for three (3) years; one (1) Monomoy Regional School Committee Member for three (3) years; one (1) Town Clerk for three (3) years; one (1) Water Commissioner for three (3) years; two (2) Library Trustees for three (3) years

BALLOT QUESTIONS
1. "Shall the Town of Harwich be allowed to assess an additional \$ in real and personal property taxes for the purpose of funding the Town's share of the Monomoy Regional School District assessment for which the monies from this assessment will be used for the fiscal year beginning July 1, 2013?"
YESNO
2. "Shall the Town of Harwich be allowed to assess an additional \$425,000 in real estate and personal property taxes to purchase and equip one (1) new fire engine and all costs incidental for which the monies from this assessment will be used for the fiscal year beginning July 1, 2013?"
YES NO
"Shall the Town of Harwich be allowed to exempt from the provisions of Proposition 2 so called, the amounts required to pay for the bond issued in order to fund road maintenance and sidewalks as outlined in Article 14 of the May 2013 Annual Town Meeting for which monies from this assessment will be used for the fiscal year beginning July 1, 2013?"
YES NO
4 (60) 11 d. T

4. "Shall the Town of Harwich be allowed to assess an additional \$187,500 in real estate and personal property taxes for the purpose of funding the construction of the Muddy Creek

Bridge for which the monies from this July 1, 2013?"	assessment will be used	for the fiscal ye	ar beginning
	YES	NO	_
5. "Shall the Town of Harwich be and personal property taxes for the pur Lower Level project for which the mor beginning July 1, 2013?"	pose of funding Phase II	of the Commur	nity Center
	YES	NO	

NON-BINDING PUBLIC OPINION ADVISORY QUESTION

Whereas, the Pilgrim Nuclear Power Station has exceeded its 40 year design life and increasingly experiences shutdowns due to plant failures and is the same design as the reactors in Japan whose safety systems failed; and

Whereas, the spent fuel rod storage pool, designed to hold 880 rods, currently holds 3300 spent fuel rods and has become a defacto unplanned and unlicensed nuclear waste repository; and

Whereas, Harwich is within 35 miles of the Pilgrim Nuclear Power Station and is downwind 50 percent of the time; and

Whereas, MEMA has determined that Cape residents and visitors will not be evacuated but plans to relocate Cape citizens after exposure to dangerous radioactive materials released in an accident; and

Whereas, the citizen of the Town of Harwich find this state response to Pilgrim's threat to health and safety unacceptable and in violation of the public trust;

Therefore, be it resolved that we the people of Harwich respectfully request Governor Deval Patrick to call upon the Nuclear Regulatory Commission to uphold their mandate to shut the Pilgrim Nuclear Power Station in Plymouth because the public safety, particularly Cape Cod residents and visitors, cannot be assured.

FUND THE PURCHASE OF A NEW RECREATION PASSENGER VAN

ARTICLE 16 To see if the Town will vote to raise and appropriate, transfer from available funds and/or borrow a sufficient sum of money to fund the purchase of a new 12 passenger van for the Recreation and Youth Department, and to act fully thereon. By request of the Harwich Recreation and Youth Director. Estimated cost: \$28,000

BEACH PARKING LOT PAVING

ARTICLE 17 To see if the Town will vote to raise and appropriate, transfer from available funds and/or borrow a sufficient sum of money to repave a beach parking lot (Atlantic Avenue) and to act fully thereon. By Request of the Recreation and Youth Commission. Estimated Cost: \$19,200

LONG POND BEACH RESTROOM

ARTICLE 18 To see if the Town will vote to raise and appropriate, transfer from available funds and/or borrow a sufficient sum of money to replace the current restroom facilities at Long Pond Beach, and to act fully thereon. By request of the Harwich Recreation and Youth Commission. Estimated Cost: \$125,000

ALLEN HARBOR BULKHEAD REPAIR AND PARKING LOT DRAINS

ARTICLE 19 To see if the town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to replace the Allen Harbor Bulkhead and parking lot drains. The appropriation authorized by this vote shall not take effect until the Town votes to exempt from the limitation on total taxes imposed by G.L. Ch. 59 §21C the amount required to pay for the capital outlay expenditure authorized by this vote, and to act fully thereon. By request of the Harbormaster. Estimated Cost: \$ 250,000

FINCOM	Onelinors ATM May 6, 2013					··········				·			
VOTE A	DTH Autor Hea	Petitioner	Request	TA Rocom.	BOS Recom.	Tax lovy	Free Cash		Vater Ent.	Capital Excl.	Debt Exclusion	Local Receipts	Other
	.RT# <u>Article Title</u> 1 Town Officers and Committees	Customary				\$ 38,910,555	\$ 1,453,985 \$	1,581,270 \$	5,690,729 \$	922,500			\$ 2,376,373
	2 Report of Town Officers and Commit												
	3 Elected Officials Salaries	Customary			3	Include in Art 4 Tov	vn Budget	_i					
	Moderato	•	300	300				-					
	Town Clerk		69.655	69,655	•								
	Selectmen (5)	•	7.500	7,500									
	Water Commissioners (3)		1.500	1.500									
	4 Town Budget	BOS	29,147,190	28,552,559		16,178,624	•	704,970	509.872			9,202,820	1,956,273
	5 Monomoy Regional School Dist.	School Board	20,337,662	20,337,662		20,337,662							
	6 CC Regional Technical School 7 Water Operating Budget	CCRTHS Water Comm	1,421,910	1,421,910		1.421,910							
	8 Fund Union Agreements	BOS	3,142,977	3,142,977					3,142,977				
	9 Fund Non-Union Compensation Plan												
•	10 Fund Contract Employee's	BOS											
	Compensation Schedule												
	11 Capital Plan Adoption	BOS											
	12 Fund New Fire Engine	Fire Chief	425,000	425,000						425,000			
	13 Fund Ambulance Computers	Fire Chief	10,000	10,000			10,000	State Aid	\$ 581,00	3			
1-0-0	14 Fund Highway Paving & Sidewalks	Highway Dir.	500,000	500,000				SBA					
7-0-0	15 Lease or Purchase and Equip	Highway Dir.	305.000	205 000				Overlay Surp			500,000		
	Vehicles 1 New Loader & 1 New	. againedy On.	505.000	305.000				Cable Fund	215,00	00			
	Dump Truck						305,000	Betterments.					
Hold	16 Fund Purchase of New Recreation	Rec & Youth	28,000 TE	3D			000,000	FEMA	<u>14.0</u>	00			
	Passenger Van	Director						TOTAL	61056				
	17 Beach Parking Lot Paving	Rec & Youth	19,200	19,200			19,200	TOTAL.	\$ 1,956,2	1/3			
7-0-0	18 Long Pond Beach Restroom	Rec & Youth	125,000	125,000				L					
	10 Allon Hoches Bulliband Bassis and	Comm.					125,000						
'	19 Allen Harbor Bulkhead Repair and Parking Lot Drains	Harbormaster	250,000	250,000			252.000						
7-0-0 2	20 Add to Dredging Reserve Fund to	Harbormaster	100,000	100,000			250,000						
	Dredge Various Entrance Channels			100,000								terway Mgt.	
											Fu	nd #1225	100,000
7-0-0 2	21 Fund Completion of the	WQMTF	210,000	210,000									100,000
	Comprehensive Wastewater					-							
6-0-0 2	Management Plan	DOC .	407.500				210,000						
	22 Muddy Creek Bridge Construction	BOS	187,500	187,500						187,500	_ `		
2	23 Community Center Lower Level -	BOS	310,000	310,000						ŕ			
6-0-0 2	Phase II		.==							310,000			
6-0-0 Z	24 Fund Multi-Mission Patrol Boat for Harbor & Fire Operations	Harbormaster	175,000	175,000									
NRPFI 2	25 Greensand Water Treatment Facility	/Mater	1 000 000	4 000 000	-		175,000						
1414111 4	ac crossoand water recurrent racinty	Comm/Supt.	1,960,000	1,960,000					4 000 000				
NRPFI 2	26 Purchase Vehicle for Water Dept.	Water	77,880	77,880		•			1,960,000			-	•
	'	Comm/Supt.	· · • •	,550					77 890				
6-0-0 2	27 Fund Police Computer Replacement	Police Chief	36,000	36,000					77,880				
			•				36,000				la a	ADTTOTI CC	1
6-0-0 2	28 Fund Garage Door Replacement at	Police & Fire	9,100	9,100			•				·	ARTICILES	I .
5-0-1 2	Public Safety Facility 29 Fund Library Technology	Chiefs											9,100
3-U-1 Z	. Fund Library rechnology	Library Trustees	29,000	29,000			on						
	30 - Install Venting & A/C in Library	Library	9,000,	≀D.		-	29,000		i				
	Basement	Trustees	3,000 16	,,,									
		and the second second	75,000 TE	D								-	
	31 Fund Library Building Maintenance	Library		-									
	Projects	Trustees											
	Projects 32 Fund Library Phase II Restoration &	Trustees Library	38,000 TE	ID OI							•		
	Projects Projects Preservation - Historic Bank Bldg	Trustees	38,000 TE								•	Dahi C	- d - d - 5
	Projects 2 Fund Library Phase II Restoration & Preservation - Historic Bank Bldg 33 Fund Historic Restoration &	Trustees Library Trustees										Debt fur	
	Projects Projects Preservation - Historic Bank Bldg	Trustees Library Trustees Historical/Histo	38,000 TE									Debt fun Betterm	
	Projects 32 Fund Library Phase II Restoration & Fund Library Phase II Restoration & Preservation - Historic Bank Bldg 33 Fund Historic Restoration & Preservation of Albro House	Trustees Library Trustees Historical/Historic Dist	38,000 TE	ID.	·								
8	Projects 2 Fund Library Phase II Restoration & Preservation - Historic Bank Bldg 33 Fund Historic Restoration &	Trustees Library Trustees Historical/Histo	38,000 TE				21,000						

1	25/48/68/21	Oneliners ATM May 6, 2013			·	······································	· · · · · · · · · · · · · · · · · · ·							
BOS VOTE	FINCOM VOTE ART	•	Petitioner	Request	TA Recom.	BOS Recom.	Tax lovy	Free Cash	CPC	Water Ent.	Capital Excl. Debt		Local Receipts	Other
		Fund Reconstruction of Skinequit Road through Private Road	Petition	172,000		<u>\$</u>	38,910,555 \$	1,453,985 \$	1,581,270 \$	5,690,729	\$ 922,500 \$	500,000	\$ 9,202,820 <u>\$</u>	2,376,373
	37	Betterment Rescind vote on Health Insurance for Elected Officials	Petition											172.000
	38	Home Rule Charter Amendments - Chapter 9, Financial Provisions Section 2, Financial Provisions	BOS									Fe	unded By Golf #154	45 Capital 1
	30	Section 3 Amend Town Bylaw Ch. 271 Sec. 1A	BOS										provments	
		(submission of articles) Long Term Solid Waste Disposal	BOS									ــــا		
		Contracts Departmental Revolving Funds	BOS											
		Authorization Golf Capital Improvement Fund	Golf Comm &	30,000										
			Dir./Fincomm/B	30,000										
	43		WWC/Harborm aster											30,000
	44	Expand Golf Capital Improvements Receipts Reserve Fund	Golf Comm											
	45	Funding for Town Capital Stabilization Fund	Sel. McManus	100,000										
	46	Create and Fund Trust Fund for Post Employment Benefits	BOS											
		Transfer Care and Custody of the Albro House from the Council on Aging to the Board of Selectmen	COA/BOS									source the Aff	Board approve the formation and encumber the formation from the formation of the formation	ınds in
	48	Appropriate Fund for Certain Land Taking	BOS										1203,000 :	•
		Transfer Land in North Harwich for Affordable Housing Development	ННС/ННА	109,000							•			•
	50	Sale of Land - 172/178 Queen Anne Rd.	BOS								•			109,000
	51	Pleasant Bay Resource Management Plan Update	BOS											
	53		BOS CPC					- -					Fund 1750 Afford.	
		Affordable Housing Development Project	CPC/HECH/HH A/HHC	455,000	455,000				455,000					
	55	Affordable Housing Buy Down	СРС/ННС/ННА	75,000	75,000	•		•	75,000				,	į
			CPC/Historical Society	40,000	40,000				40,000					
		Restoration, Preservation & Digitalization of Harwich Cemetery Records	CPC/Cemetery	11,000	11,000				11,000					
	58	Restoration of Floors at Historic	CPC/Chase	5,300	5,300			-	5,300					•
	59	Restroom Facilities at Multi Purpose Fields behind Community Center	CPC/R&Y	65,000	65,000				65,000					
		Fund Purchase of Land for Open Space Purposes	CPC/REOS	225,000	225,000			-	225,000				!	
	61	Space Purposes Compensating Balance Agreement	Customary									· ·	1	
	014510046	9:25 AM					ro ATM May 2012							

BOS VOTE		Oneliners ATM May 6, 2013 Article Title Liability Tidal/Non-Tidal Rivers Herring Fisheries	Petitioner Customary Customary	Request	TA Recom.	BOS Recom.		<u>x levy</u> 8,910,555	Free Cash \$ 1,453,985 \$	<u>CPC</u> 1,581,270 \$	Water Ent. 5,690,729	<u>Copital Excl.</u> \$ 922,500	Dobt Exclusion \$ 500,000	Local Receipts \$ 9,202,820 \$	Other \$ 2,376,373
		T-4-1 ATTRANS - OCCO				-		<u> </u>						-	_
		Total ATM May 2013	•	60,409,674	59,180,043		3	7,938,196	1,200,200	1,581,270	5,690,729	922,500	500,000	9,202,820	2,376,373
		Balancos	<u>.</u>					972,359	253,785	-	•	•	-	•	-
	1	Special Town Meeting Articles 41401	•												
	2 3 4														
	6														ļ
	7														
	8														
	9														
	10														
		Sub Total				-		_	_	_	_	_			
		Total ATM & STM May 2013		60,409,674	59.180,043		37	7,938,196	1,200,200	1,581,270	5,690.729	922,500	500,000	9,202,820	2,376,373
			. [7								0,202,020	2,570,575
		<u>Totals_Used</u> <u>Tax Levy Balance</u>	.				37	7,938.196	1.200.200	1.581,270	5.690,729	922,500	500.000	9.202,820	2,376.373
		Tax Rato RecapFY 2011	<u> </u>					972.359	253,785	•	•	-	•	-	-
		Court Orders Debt & Interest						-							
		Snow & Ice Cherry Sheet Assessments	·					609,516	-						
		Overlay						425,000							İ
		Cherry Sheet Offsets	I					18,297				_		-	
		Total Recap					1	1,052,813							-
L		Balance	<u></u>				\$	(80,454)	\$ 253,785 \$	- s	-	\$ -	\$	\$ - 9	5 -

To: Board of Selectmen From: James R. Merriam

Town Administrator

Re: Report for week ending March 15, 2013

Monomoy Regional School Budget reduced

I wanted you to have this information -- although it will be presented at the school committee tonight, it was public as of the Chatham BOS last night. The attached files include the new Monomoy numbers. With reductions and reclassifications we were able to take care of most of the gap. The primary benefit here is derived from the same source as last year -- School Choice. With the year more than half over, we were able to identify budgeted items that could be reduced, allowing us to reclassify other costs originally assigned to School Choice to the regular FY 13 budget and carry more School Choice offset dollars into FY 14.

Ordinarily we would wait until tonight's MRSC meeting to provide the data, but (with the approval of the MRSC Budget Subcommittee) we shared the new numbers at last night's Chatham BOS meeting. Not surprisingly with the savings to Chatham, they voted unanimously to recommend what tonight will likely become the approved assessment numbers at their Town Meeting.

Carolyn

Cape Cod Chamber of Commerce

On March 7th, I was invited by Governor Patrick to attend the CC Chamber of Commerce luncheon in which he advocated for his new Tax plan and \$1.9b increase dedicated for Transportation and Education. Chamber President Dorothy Savarese, Executive Director Wendy Norcross and Senator Dan Wolf strongly advised Governor Patrick that the Cape's major Capital Infrastructure need is <u>WASTEWATER</u>. Needless to say, I was thrilled to personally witness the delivery of this message to the Governor. There is no doubt in my mind that the Governor heard the message loud and clear. I would not be surprised to see a bond bill drafted in the very near term. Now, the message needs to be delivered to the US Senate candidates and seek their commitment to the Cape for Federal funding!

MMA Bulletin

Speaker DeLeo has indicated that he intends to file legislation for the Chapter 90 increase. MMA is urging support of his efforts by contacting our Legislators. (see attached).

Pleasant Bay plan update

The Pleasant Bay Alliance has released its draft 2013 Update of the Pleasant Bay Resource Management Plan. This spring Town Meetings in all four Alliance towns will be asked to adopt the plan update.

The draft 2013 Plan Update may be downloaded from the home page of the Alliance website, <u>www.pleasantbay.org</u>. A link is provided below. A public hearing is scheduled for March 21st at 7 pm. at Orleans Town Hall.

More details are provided in the attached media release. Please let me know if you have any questions.

Thanks, Carole

link to the draft update:

http://www.pleasantbay.org/wp-content/uploads/RMP2013_PCDraft_030813LoRes.pdf

Herring River revised MEP

Please find attached the MEP Technical Team response to comments received by the MEP regarding the Herring River Nitrogen Threshold Report. The MEP Technical Team has considered all the comments developed by CDM/Smith and has revised the Draft Herring River Report as appropriate per the CDM/Smith comments as well as the comments generated by the combined review undertaken by MassDEP/BBP/MCZM.

The Final Report is being assembled presently and will be made available via the Town of Harwich password protected download page. An email will be issued when the Final Report is available for download.

Have a good weekend. Respectfully,

Roland Samimy
MEP Technical Coordinator
Coastal Systems Program
School for Marine Science and Technology
University of Massachusetts-Dartmouth

DPU Notice re: transfer of solar to CVEC

Attached please find a Notice and Order of Notice issued by the Department today in the above-captioned matter.

Please note that the Order of Notice requires the Notice to be served, published, and posted to the town website no later than Wednesday, March 13, 2013. The newspaper will require you to supply the Notice as an MS Word file, which is attached here. Please use the PDF file for all other purposes (e-mail, web posting, etc). If you have questions about this, please let me know.

Laura C. Bickel, Hearing Officer Commonwealth of Massachusetts Department of Public Utilities Disability Rights Committee

Bob Cafarelli and I attended the DRC meeting to respond to and discuss their two grievances. We concluded by offering to submit a STM article to fund the ADA handicap ramps at Library/Town Hall and to install a couple inches of stonedust on top of the T-base to firm up the walking path around the Community Center ballfields.

ATM Article 30 Library

As discussed with Selectmen on Monday night, we now have firm quotes for the venting and AC so we can reduced the \$25,000 placeholder for Article 30 to \$9000. (I also have a question below.) Dan Durgin will do the venting work for \$2700 and we have the funds in this year's budget so I've authorized him to get it done and eliminate that safety concern. The AC portion of the article can be done for \$9000. I am sending this to you in a letter but thought you might want to know sooner as you work on the budget.

I'm also looking for guidance on whether we should continue to seek funding through the article now we looking for a much smaller amount, or should we go to the FinCom with a Reserve Fund Transfer Request for it this year? I'm working on estimating our Maintenance costs for the rest of the year. If I project that, barring an unexpected major problem, we have \$2000 or \$3000 that could go towards this, that would further reduce the amount of the Reserve Fund Transfer. I have no idea of the size of the Reserve Fund and what other competing demands are expected for it, so let me know if you think that's an option we should pursue.

Thanks, Ginny

New multi-purpose patrol boat update (do you wish to include transfer to County in motion?) "and the Board of Selectmen be authorized to transfer title of the Commander to the Barnstable County Dredge in exchange for an equivalent value of dredging services".

FYI... good news, as indicated in the below email from NOAA the Town can transfer the Commander to another government organization. I talked with Wayne Jaedtke today and the Barnstable County Dredge is still very interested in receiving the boat. We can't sell the boat, but we can receive dredge services that are equal to a reasonable sell price for the boat... Wayne is agreeable to this. So I guess we should get it to the Selectmen for approval so we can execute the transfer upon receipt of our new patrol boat (if/when funds are approved at Town Meeting). v/r,

John C. Rendon, Harbormaster

Route 137 construction progress

I am please to report that yesterday's Route 137 utility coordination meeting was extremely positive (the first in 1.5 years) and shows promise of keeping the project on its June 2013 completion date. N-Star has been working for the last 2 weeks weather permitting and has committed to have all their work done by Friday, March 22. Comcast states that they have 2 to 3 weeks of work while Verizon feels they will have two separate crews (underground and overhead) working for 3 to 4 weeks. Although Lynch and everyone at the table is encourage by the utilities' efforts, this by no means ensures

completion of the project this spring unless all the poles and pedestals are moved as promised. Thanks, Link

Allen Harbor Dredging update
On March 14th, we hired Barrows Excavator to assist with de-watering the dredge material at Pleasant Road Beach pit and started loading trucks to haul the material to the former landfill site. Link projects that it will take 5-6 weeks at 8 truckloads per day to complete.

Cape Cod Tech

Supt. Sanborn and Business Manager Erin Orcutt spoke to Cape Managers in Falmouth regarding a planned Facility upgrade and need for support from the member communities. Bob hopes to file a Letter of Interest with MSBA by April 10th.

MONOMOY REGIONAL SCHOOL DISTRICT FY14 BUDGET

Recommended FY 14 Budget - January 16, 2013

Category	Amount
Budget	\$32,391,217
Assessments	\$28,801,113
Harwich Assessment	\$20,956,474
Chatham Assessment	\$7,844,639

Retirement Incentive Update - February 27, 2013	
Category Amount	
	Change
Harwich Assessment \$20,750,	
Chatham Assessment \$7,768,5	555 (\$76.084)

Adjustments, Reductions and Reclassifications - March 13, 2013

Category	Amount	Change
<u>Adjustments</u>		\$24,738
NEED Academy	\$11,738	, , ,
Workers' Compensation	\$23,000	
Duplicate Entries	(\$10,000)	
Reductions		(\$168,900)
Staffing	(\$30,659)	, , ,
Textbooks	(\$26,000)	
Technology	(\$15,114)	
Non-instructional Supplies	(\$47,127)	
Legal Commence of the second s	(\$35,000)	
Unemployment	(\$15,000)	
<u>Reclassifications</u>		(\$421,733)
Circuit Breaker	(\$101,733)	
School Choice	(\$320,000)	
TOTAL	un ann aith dean 1913, an t-ailt i an 19 San ann a Guirean ann an 1911 an 1911 an 1	(\$565,895)

Adjustments, Reductions and Reclassifications - March 13, 2013

Category	Amount	Reduction
Budget	\$31,543,530	(\$565,895)
Assessments	\$27,953,426	(\$565,895)
Harwich Assessment	\$20,337,662	(\$413,104)
Chatham Assessment	\$7,615,764	(\$152,791)

FY 14 Budget Process - January to March 2013

Category	January	February	March	Reduction
Budget	\$32,391,217	\$32,109,425	\$31,543,530	(\$847,687)
Assessments	\$28,801,113	\$28,519,321	\$27,953,426	(\$847,687)
Harwich Assessment	\$20,956,474	\$20,750,766	\$20,337,662	(\$618,812)
Chatham Assessment	\$7,844,639	\$7,768,555	\$7,615,764	(\$228,875)

March 13 Assessment Proposal Compared to Towns' Proposed Number (2.75%)

	Proposed	Towns' FY 14	
Catego	y Assessment	Recommend	Difference
Assessments	\$27,953,426	\$28,563,766	(\$610,340)
Harwich	\$20,337,662	\$20,220,790	\$116,872
Chatham	\$7,615,764	\$8,342,976	(\$727,212)

James Merriam

From:

mma-alert@mma.org

Sent: To: Thursday, March 07, 2013 5:16 PM jmerriam@town.harwich.ma.us

Subject:

TRANSPORTATION FINANCE LEGISLATION COMING SOON

×

One Winthrop Square | Boston | MA | 02110 | 617-426-7272

March 7, 2013

HOUSE SPEAKER ANNOUNCES TRANSPORTATION FINANCE LEGISLATION COMING SOON PLEASE

CONTACT YOUR REPRESENTATIVES TODAY AND TELL THEM YOU NEED \$300 MILLION FOR CHAPTER 90

Earlier this morning, House Speaker Robert DeLeo announced that the House of Representatives will be drafting its own transportation finance package by the end of March, and will be debating it as separate legislation by the first week in April, before the House considers the state budget. The Speaker announced that the revenue package would be substantially smaller than the Governor's \$1.9 billion tax plan, and would be dedicated exclusively to transportation. He stated that his priorities are: maintaining and repairing our current transportation system, ending the practice of borrowing money to pay MassDOT's operating budget, solving the MBTA's finance crisis, and funding regional transit authorities.

- PLEASE CALL YOUR REPRESENTATIVES TODAY AND SECURE THEIR COMMITMENT TO PASS A 5-YEAR BOND BILL THAT FUNDS CHAPTER 90 AT \$300 MILLION A YEAR.
- LET YOUR REPRESENTATIVES KNOW THAT YOU WILL SUPPORT A COMPREHENSIVE TRANSPORTATION FINANCE PACKAGE THAT FIXES TODAY'S FUNDING CRISIS, AND YOU WILL SUPPORT THE TAX REVENUES NECESSARY TO FUND IT.
- STRESS THAT INCREASING CHAPTER 90 FUNDING IS THE BEST, MOST EFFECTIVE AND EFFICIENT WAY TO ENSURE REGIONAL EQUITY, AND GUARANTEE THAT EVERY CITY AND TOWN WILL BENEFIT FROM THE LEGISLATION.
- AND REMIND YOUR LAWMAKERS THAT CITIES AND TOWNS MAINTAIN 90% OF THE ROADS IN MASSACHUSETTS, AND FUNDING CHAPTER 90 IS THE BEST WAY TO REPAIR THE CRUMBLING ROADWAYS THAT TAXPAYERS DRIVE ON EVERY DAY.

HERE ARE MORE DETAILS TO DISCUSS WHEN YOU SPEAK WITH HOUSE MEMBERS:

- Cities and towns are responsible for 30,000 miles of roads in Massachusetts, and Chapter 90 funding must be increased to prevent these roads from deteriorating and crumbling. Economists and transportation experts all agree cities and towns must have enough funds to maintain and rebuild local roads so that we can build a stronger economy, create jobs, ensure safe roadways, and enhance our quality of life;
- Funding for local roads across the state is dangerously low, and now is the time to invest the more we delay, the more this will cost taxpayers in the long run. The MMA and local officials across the state are calling for a \$100 million increase in annual Chapter 90 funding, asking state leaders to commit to \$300 million a year over the next 5 years to help close the gap and get local roadways in Massachusetts much closer to the good repair standard;
- Chapter 90 funding is the most reliable, appropriate and effective way to close the local transportation funding gap and invest in improved roadways in all communities across the state;
- The state created the Chapter 90 program in 1973 to share a portion of gas tax revenues with communities to ensure adequate resources for local road construction needs. But 40 years later, funding for the Chapter 90 program is far short of the actual need, because construction costs have escalated sharply, in great part due to significant increases in the cost of fossil fuels, which drives up the price of construction materials such as asphalt and steel;
- Investing more in Chapter 90 funding to improve the quality of local roads will actually save taxpayers millions of dollars a year. According to the U.S. Department of Transportation, once a local road is in a state of good repair, every \$1 dollar invested to keep it properly maintained will save \$6 to \$10 dollars in avoided repair costs that become necessary to rebuild the road when it fails;
- Under Proposition 21/2, cities and towns are unable to increase the amount of local funds to supplement Chapter 90 unless they cut other important

services such as public safety or education, or pass a tax override, increasing local reliance on the already overburdened property tax; and

• The MMA and local officials across the state are also members of the broad coalition of stakeholders calling for a comprehensive state and local transportation finance plan, recognizing that the entire Commonwealth will benefit greatly from increased revenues to invest in local and state roadways and highways, and regional and mass transit systems.

PLEASE CALL YOUR REPRESENTATIVES TODAY AND SECURE THEIR COMMITMENT FOR \$300 MILLION A YEAR FOR CHAPTER 90. THANK YOU VERY MUCH!

If you have any questions, comments or suggestions, feel free to contact us.
You can also always find additional information on our website at:

www.mma.org

This e-mail was sent from Massachusetts Municipal Association (mma-alert@mma.org) to jmerriam@town.harwich.ma.us.



To unsubscribe, please click on this link and follow the instructions: Unsubscribe

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